

HISTORY OF ISLAMIC JURISPRUDENCE

**A narrative of the history of islamic legislation
expounding its origins and development,
demonstrating the sources and schools of
legislation, and revealing its merits and purposes**

تَلِيْخُ الْفِقْهِ الْإِسْلَامِيِّ

Revised, Corrected, and Edited by
Muhammad Ali As-Sayiss
Teacher in Al-Azhar

Translated by
Rami Touqan

Index

Index	3
Introduction	9
The Course of the History of Islamic Legislation for the second year in the University of Islamic Law – Two Classes a Week	11
The Subjects of the Introduction	15
Legislation is Celestial and Humanly Posited.....	25
The Necessity of the Difference between the Celestial and the Humanly Posited	26
The Stages which Islamic Legislation went through	31
The First Stage: The State of the Arabs at the Time of the Mission of the Messenger (Prayers of Allah and His Peace upon him).....	33
Legislation at the Age of Prophethood.....	34
Legislation in Mecca	35
Legislation in Medina.....	37
The Source of Legislation	40
1- The Book.....	40
How was the Holy Quran Revealed and Descended.....	42
Its Descent according to Events and Occasions	42
The Descent of the Quran in Separate Parts and Portions and the Wisdom behind this	46
The Usefulness of Knowing the Causes of the Descent.....	49
The First Verse and the Last Verse to be Revealed from the Quran	51
Writing Down the Quran and Learning It	59
The Meccan and Medinan Quran and the Main Characteristics of both of them	61
The Meccan and the Medinan	61
The Characteristics of the Meccan and the Medinan	63
The Principles of Islamic Legislation in the Quran.....	65
2- The Sunnah	77
The Definition of the Sunnah	77

The <i>Sunnah's</i> binding force in Legislation	78
The <i>Sunnah's</i> Level in Legislation.....	82
Diligence at that Age.....	83
The Prophet's Permission for His Companions to Use Diligence	87
The Wisdom behind the Prophet's Diligence and His Permission to the Companions to Perform It	93
The Second Stage Legislation at the time if the Righteous Caliphs	95
How was Legislation at that Age?.....	95
1- The Book.....	99
The Collection of the Quran and Copying It into <i>Mushafs</i> ...	99
The Variations between the Companions in their Understanding of the Quran	103
2- The <i>Sunnah</i>	107
The Ways of the Companions in Working According to the <i>Sunnah</i>	109
3- Consensus (<i>Ijma'</i>)	112
4- Opinion and Point of View	114
The Companions' Usage of Opinion and Their Attitude in it.....	114
The Most Famous of Those Who Accepted Opinion as Legislation.....	116
Reconciling the Disparagement of Opinion and Applying It.....	117
Examples About Things About Which the Companions Disagreed.....	118
Summary	130
Omar.....	134
Zayd Ibn Thabit.....	143
Abdullah Ibn Omar.....	145
Ibn Mas'ud	147
The Third Stage Legislation from the end of the Time of the Guided Caliphs to the beginning of the Second Hijri Century, the State of Legislation at that Age	151
A General Discussion of the Khawarij and the Shiites	153
The Khawarij.....	156

The Teachings of Al-Khawarij	157
Shiites	160
The Effect of Shi'ism in Islamic Jurisprudence	164
The Dispersion of the Muslim Men of Knowledge in the Countries	168
The Prevalence of the Narration of Traditions	170
The Appearance of Falsifiers	172
The Rising of the Men of Knowledge to Resist the Falsifiers	176
The Effect of Falsification on Legislation.....	177
The Appearance of the Non-Arab Learned Men.....	178
The Division of the Men of Knowledge to People of Opinion (<i>Ra'y</i>) and People of Traditions (<i>Hadith</i>).....	181
The Prevalence of the School of the Traditions and Its Causes and Characteristics	182
The Prevalence of the school of opinion in Iraq, Its causes and Its Characteristics.....	183
(First) Among the People of Medina.....	189
1- Sa'id Ibn Al-Musayyib.....	189
2- Nafi' the Freed Slave of Abdullah Ibn Omar Ibn Al-Khattab	191
(Second) Among the People of Kufah	192
1- 'Alqamah Ibn Qayss An-Nakh'i	192
2- Ibrahim An-Nakh'i.....	193
(Third) From the People of Basra.....	194
Al-Hassan Al-Basri	194
The Fourth Stage Legislation: from the Beginning of the Second Century to the Middle Fourth Century	196
The State of Legislation at that Age.....	196
The Activity and Expansion of Legislation.....	197
The Factors leading to the legislative activity in the fourth Stage	200
1- The Caliphs' Patronage for Jurisprudence and the Jurists.....	200
2- The Freedom of Opinion.....	202
3- The Plentitude of Argumentation.....	203
4- The Plentitude of Occurrences	205
5- The Influence of the Cultures of the Various Nations on the Intellects	206

6- Writing Down the Sciences.....	208
Quranic Interpretation (<i>Tafsir</i>).....	209
The Sunnah.....	212
The Four Schools of Jurisprudence and Their Founders.....	219
Abu Hanifah.....	219
The Most Famous between His Companions:.....	227
Abu Yussuf.....	227
Muhammad Ibn Al-Hassan Ash-Shaybani.....	230
The Effect Abu Hanifah's Companions on His School.....	231
Juristic Issues for the Hanafis.....	232
Imam Malik and His Scholarly Life.....	233
The Principles of His School.....	237
His Trial.....	242
The Most Famous of His Companions:.....	243
Abd Ar-Rahman Ibn Al-Qassim.....	243
Abu Muhammad Abdullah Ibn Wahb.....	244
Imam Ash-Shafi'i: His Early Life, the Places to which he travelled and his juristic influence in them.....	246
His old school.....	249
His new school.....	250
The Principles of His School.....	251
The Most Famous of Ash-Shafi'i's companions Isma'il Ibn Yahya Al-Muzni.....	254
Al-Buwaytti.....	254
The Fourth Imam: Ahmad Ibn Hanbal.....	256
His Academic beginnings and the principles of His school.....	256
The Principles of His School.....	259
The Fewness of Ibn Hanbal's Followers and the Causes of This.....	261
The Fifth Stage From the Middle of the Fourth Hijri Century until the Fall of Baghdad in 656 A.H.....	263
The State of Legislation at that Stage.....	263
The Deeds of the Men of Knowledge at that Stage.....	268
1- The Justification of the Judgments.....	269
2- Preference between Different Opinions in the One School.....	271
3- Supporting the Schools.....	273

The Sixth Stage From the Middle of the Seventh Century Until the Present Day.....	275
The State of Legislation at this stage – the prevalence of Imitation.....	275
The Causes of the Spreading and Prevalence of Imitation....	280
The Biographies of Some Scholars of that Age who were Distinguished from Others.....	285
First – From the Hanafi Scholars.....	285
An-Nasafi.....	285
Az-Zayla'i.....	286
Al-Kamal Ibn Al-Humam.....	286
Al-'Ayni:.....	288
Ibn Nujaym:.....	289
Second: From the Maliki Scholars.....	289
Khalil:.....	289
Al-Ajhuri:.....	290
Al-Kharashi:.....	290
Al-'Adawi:.....	291
Third – Among the Shafi'i Scholars.....	292
Muhyi Ed-Din An-Nawawi.....	292
Taqi Ed-Din As-Subki.....	292
Sheikh Al-Islam Zakariah Al-Ansari.....	293
Ibn Hajar Al-Haytami.....	294
Fourth: The Hanbali Scholars.....	295
Ibn Taymiyyah.....	295
Ibn Al-Qayyim.....	297
Work on the Renaissance of Religious Thought in our Present Day.....	298

6- Writing Down the Sciences.....	208
Quranic Interpretation (<i>Tafsir</i>)	209
The Sunnah.....	212
The Four Schools of Jurisprudence and Their Founders.....	219
Abu Hanifah	219
The Most Famous between His Companions:.....	227
Abu Yussuf.....	227
Muhammad Ibn Al-Hassan Ash-Shaybani.....	230
The Effect Abu Hanifah's Companions on His School.....	231
Juristic Issues for the Hanafis.....	232
Imam Malik and His Scholarly Life.....	233
The Principles of His School.....	237
His Trial.....	242
The Most Famous of His Companions:.....	243
Abd Ar-Rahman Ibn Al-Qassim.....	243
Abu Muhammad Abdullah Ibn Wahb	244
Imam Ash-Shafi'i: His Early Life, the Places to which he travelled and his juristic influence in them.....	246
His old school.....	249
His new school	250
The Principles of His School.....	251
The Most Famous of Ash-Shafi'i's companions Isma'il Ibn Yahya Al-Muzni.....	254
Al-Buwaytti.....	254
The Fourth Imam: Ahmad Ibn Hanbal	256
His Academic beginnings and the principles of His school ..	256
The Principles of His School.....	259
The Fewness of Ibn Hanbal's Followers and the Causes of This.....	261
The Fifth Stage From the Middle of the Fourth Hijri Century until the Fall of Baghdad in 656 A.H.	263
The State of Legislation at that Stage.....	263
The Deeds of the Men of Knowledge at that Stage.....	268
1- The Justification of the Judgments	269
2- Preference between Different Opinions in the One School....	271
3- Supporting the Schools	273

The Sixth Stage From the Middle of the Seventh Century Until the Present Day	275
The State of Legislation at this stage – the prevalence of Imitation	275
The Causes of the Spreading and Prevalence of Imitation....	280
The Biographies of Some Scholars of that Age who were Distinguished from Others	285
First – From the Hanafi Scholars	285
An-Nasafi	285
Az-Zayla'i	286
Al-Kamal Ibn Al-Humam	286
Al-'Ayni:	288
Ibn Nujaym:.....	289
Second: From the Maliki Scholars	289
Khalil:.....	289
Al-Ajhuri:	290
Al-Kharashi:	290
Al-'Adawi:.....	291
Third – Among the Shafi'i Scholars.....	292
Muhyi Ed-Din An-Nawawi	292
Taqi Ed-Din As-Subki.....	292
Sheikh Al-Islam Zakariah Al-Ansari.....	293
Ibn Hajar Al-Haytami.....	294
Fourth: The Hanbali Scholars.....	295
Ibn Taymiyyah	295
Ibn Al-Qayyim	297
Work on the Renaissance of Religious Thought in our Present Day.....	298

In the Name of Allah, the Compassionate, the Merciful Introduction

Praise is for Allah, the Inspirer of righteousness, the Guide to the Path of integrity, and Prayers and Peace on the best of His Prophets and the master of His selected ones, our master Muhammad, and his Household and Companions.

This is a summary of the history of Islamic legislation demonstrating its origination and development, citing its sources and its schools, revealing its distinctive features and purposes, showing how the Prophet (Prayers of Allah and His Peace upon him) and His Companions after him made the utmost effort to establish its firm foundations, and how the early Muslim predecessors dedicated their efforts and activities to the service of this Law; to delve deep into its secrets, researching into its rules and judgments, and also clearly demonstrating that these were successful attempts and good and blessed efforts.

This book recounts to the reader the stories of the jurists and the diligent men of knowledge, the history of the lives of the heroes of Islam to incite him to follow their example, and convince him that they were sincere and truthful in the fulfillment of the pact they have with Allah.

We have confined our research in this book to the requirements of the new course of the second year in College of Islamic Law in Al-Azhar University.

We ask Allah to show us the right way, and direct us to the best course of actions and the one most loved by Him.

2-The Sunnah: the methods employed by the Companions in its application.

3-Consensus: its availability.

4-Opinion: The stand of the Companions from it, reconciling the disapproval of opinion and acting according to it, the disagreement between the Companions and its causes, the famous *Muftis* of that age.

The third stage: the state of legislation at that stage, a general word on the Kharijites and the Shiites, the effect of Shi'ism on legislation, the dispersion of Muslim men of knowledge in countries, the prevalence of the narration of Traditions, the appearance of the falsifiers of Traditions, the effect of falsification on legislation, the division of the scholars into ones who adhere to Traditions and ones who adhere to opinions, the prevalence of the school of Traditions in Hijaz and its causes and distinctive features, the prevalence of the school of opinions in Iraq and its causes and distinctive features, the most famous of *Muftis* at that age.

The fourth stage: the factors of its activities, legislation in that stage, the patronage manifested by Caliphs to jurisprudence and the jurists, freedom of opinion, the abundance of argumentation, the influence of the cultures of the various nations, the writing down of jurisprudence and Quranic interpretation, the appearance of the schools of jurisprudence, Abu Hanifah and his method in jurisprudence, the most famous of his companions and their influence on jurisprudence, Malik and his method in jurisprudence, the most famous of his companions, Ash-Shafi'i, the places he travelled to and his influence on them, his method, the most

famous of his companion, Ahmad Ibn Hanbal, his method, the fewness of his followers and the cause behind this.

The fifth stage: the state of legislation at that time, the justification of judgments, preference, prejudice for the schools.

The sixth stage: the prevalence of imitation and its causes.

The Subjects of the Introduction

The meaning of legislation, the need for legislation, on that legislation is Divine or man-made, the difference between the two, and the phases in went through.

The Meaning of Legislation: Legislation [*Tashri'*] is a derivative from *Shara'* which is taken from *Shari'ah* which linguistically means one of two things:

First: is the straight path, an example of this is Allah's saying: "Then We put thee on the (right) Way of Religion: so follow thou that (Way)" [Surah of the Crouching: 18].

﴿ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ

الَّذِينَ لَا يَعْلَمُونَ ﴿١٨﴾﴾ [الجاثية: 18]

The second: is the flowing source of water which is where people and animals go to drink. The word "*Shari'ah*" was then used by the jurists to refer to the judgments which Allah legislated for His servants so that they would be working believers who act according to what brings their bliss in this world and the Hereafter. These rulings were called *Shari'ah* because they are straight and righteous, firm in their position, their order has no deviation, they never lead astray from their purpose being similar a straight path which has neither twists nor turns, and because they are also similar to a source of water since they are the way to the life of the soul and the nourishment of the mind just as the source of water is the way for the life of the body.

Shari'ah in this sense is the source of the word *Sharra'* [meaning to legislate], so religion legislates when it defines rules, clarifies the order of things, and shows the rulings. It is said in the Divine Revelation: **"The same religion has He established for you as that which He enjoined on Noah"** [Surah of the Council: 13].

﴿ شَرَعَ لَكُمْ مِنَ الدِّينِ مَا وَصَّى بِهِ نُوحًا ﴾ [الشورى: 13]

And also: **"What! Have they partners (in godhead), who have established for them some religion without the permission of Allah"** [Surah of the Council: 21].

﴿ أَمْ لَهُمْ شُرَكَاءُ شَرَعُوا لَهُم مِّنَ الدِّينِ مَا لَمْ يَأْذَنَ بِهِ اللَّهُ ﴾ [الشورى: 21]

Based on all this we can say that legislation is passing laws and clarifying judgments, taken in this meaning Islamic legislation only took place within the life time of the Messenger (Prayers of Allah and His Peace upon him) and from him alone, Allah did not give anybody other than His Prophet the power to legislate laws, to do this he relied on Revelation in its two aspects: the recited one which is the Quran, and that which is not recited which is the Sunnah. In the Prophet's life (Prayers of Allah and His Peace upon him) the universal rules were set and the rulings originated, what was mentioned in summarized form was clarified and the generalities were applied to specific cases, definitions were introduced to its undefined issues and what Allah (Exalted is He) willed to annulled was annulled, he stated the justification for a particular and specific ruling so that it would be universalized and generalized so that this rule and

judgment would be applicable to each period of time and in all states of affairs.

In general, the rules of this Law were firmly established, their foundations were solidly set, and their principles were perfected at the time of the Prophet (Prayers of Allah and His Peace upon him), this is attested to by Allah's saying: **"This day have I perfected your religion for you, completed My favor upon you, and have chosen for you Islam as your religion"** [Surah of the Table: 3].

﴿ الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ

لَكُمْ الْإِسْلَامَ دِينًا ﴾ [المائدة: 3]

And His saying (Exalted is He): **"If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day"** [Surah of the Women: 59].

﴿ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ

وَالْيَوْمِ الْآخِرِ ﴾ [النساء: 59]

Referring to Allah (Exalted is He) is returning to His Book, referring to the Messenger (Prayers of Allah and His Peace upon him) is making him the judge in his own lifetime, and then returning to his Sunnah after his death. Allah (Exalted is He) said in reference to this affair: **"Say: "If ye do love Allah, Follow me: Allah will love you and forgive you your sins"** [Surah of the Household of Imran: 31].

﴿ قُلْ إِنْ كُنْتُمْ تُحِبُّونَ اللَّهَ فَاتَّبِعُونِي يُحْبِبْكُمُ اللَّهُ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ ﴾ [آل عمران: 31]

Shari'ah in this sense is the source of the word *Sharra'* [meaning to legislate], so religion legislates when it defines rules, clarifies the order of things, and shows the rulings. It is said in the Divine Revelation: **"The same religion has He established for you as that which He enjoined on Noah"** [Surah of the Council: 13].

﴿ شَرَعَ لَكُمْ مِنَ الدِّينِ مَا وَصَّى بِهِ نُوحًا ﴾ [الشورى: 13]

And also: **"What! Have they partners (in godhead), who have established for them some religion without the permission of Allah"** [Surah of the Council: 21].

﴿ أَمْ لَهُمْ شُرَكَاءُ شَرَعُوا لَهُم مِّنَ الدِّينِ مَا لَمْ يَأْذَنَ بِهِ اللَّهُ ﴾ [الشورى: 21]

Based on all this we can say that legislation is passing laws and clarifying judgments, taken in this meaning Islamic legislation only took place within the life time of the Messenger (Prayers of Allah and His Peace upon him) and from him alone, Allah did not give anybody other than His Prophet the power to legislate laws, to do this he relied on Revelation in its two aspects: the recited one which is the Quran, and that which is not recited which is the Sunnah. In the Prophet's life (Prayers of Allah and His Peace upon him) the universal rules were set and the rulings originated, what was mentioned in summarized form was clarified and the generalities were applied to specific cases, definitions were introduced to its undefined issues and what Allah (Exalted is He) willed to annulled was annulled, he stated the justification for a particular and specific ruling so that it would be universalized and generalized so that this rule and

judgment would be applicable to each period of time and in all states of affairs.

In general, the rules of this Law were firmly established, their foundations were solidly set, and their principles were perfected at the time of the Prophet (Prayers of Allah and His Peace upon him), this is attested to by Allah's saying: **"This day have I perfected your religion for you, completed My favor upon you, and have chosen for you Islam as your religion"** [Surah of the Table: 3].

﴿ الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتِمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا ﴾ [المائدة: 3]

And His saying (Exalted is He): **"If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day"** [Surah of the Women: 59].

﴿ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ﴾ [النساء: 59]

Referring to Allah (Exalted is He) is returning to His Book, referring to the Messenger (Prayers of Allah and His Peace upon him) is making him the judge in his own lifetime, and then returning to his Sunnah after his death. Allah (Exalted is He) said in reference to this affair: **"Say: "If ye do love Allah, Follow me: Allah will love you and forgive you your sins"** [Surah of the Household of Imran: 31].

﴿ قُلْ إِنْ كُنْتُمْ تُحِبُّونَ اللَّهَ فَاتَّبِعُونِي يُحْبِبْكُمُ اللَّهُ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ ﴾ [آل عمران: 31]

The Prophet (Prayers of Allah and His Peace upon him) said: "I have left two things within you, you will never go astray as long as you uphold them: Allah's Book and the Sunnah of His Prophet". The Prophet (Prayers of Allah and His Peace upon him) also said: "I have left you on the tolerant *Hanifi* religion". From all this, it is clear that the Prophet (Prayers of Allah and His Peace upon him) did not part with this life until the construction of the Law was complete, the rulings which took place after his death and which were affirmed through the diligence of the Companions and their followers is not actual legislation, it is extending the circle of the universal rules to apply to particular events which arise with the passage of time, deriving rulings from the texts through understanding them or reaching a deductive analogy in the events in which no text is mentioned. Legislation, then, has no source except the Quran and the Sunnah no matter how much time passes since their revelation.

Based on this we can say that the history of Islamic legislation only applies to what was posited and clarified at the time of the Prophet (Prayers of Allah and His Peace upon him), it does not include the partial rulings later discovered by the minds of the diligent men of knowledge. But since this knowledge which is the subject of our discussion in this book is not limited to the time of the Prophet (Prayers of Allah and His Peace upon him), but also includes what occurred in jurisprudence until our present day, and as it also includes the discussion of the jurists and the diligent scholars and all the scientific effects they had in all the phases of the development

of this discipline, we must extend the definition of this term so as to say:

The History of Islamic Legislation: is the science which looks into the state of Islamic jurisprudence at the age of the Divine Message and the ages which came after it from the aspect of the determination of the time at which these rulings originated, also explaining the annulment, particularization, branching and so on which occurred in them, and the state of the jurists and the diligent scholars and what took place with them in the affair of these judgments.

So the term: "History of Legislation" and after extending the circle of its definition in this manner, would be synonymous to the term: "History of Islamic Jurisprudence", indicating its meaning.

The need for legislation: Since the beginning of creation, people move in this life driven by the various aspects of their personal existences and under the influence of their different instinctive inclinations. Human primordial nature necessitated that the individual would not look after his affairs on his own, the human individual is instinctively a social being who needs the aid of the fellow members of his species to achieve his goals and perfect the means of his life. His own individual efforts and learning and faculties necessarily fall short of achieving these goals and means. For all of these reasons, human life was necessarily a collective one in which each individual would fill a gap in the construction of a society, the efforts of all of those individuals would be organized in a comfortable life for all. Souls, however, are intrinsically egocentric, they are filled with self-love to the core, so each

individual wishes to take his own lot and attain as much pleasure for himself as possible.

So if people are left to themselves in all the aspects of their lives so that each of them can follow his own opinion and his own desires at all times - and bearing in mind the variation of directions and drives these opinions and desires lead to in each individual- and if an order distinguishing the good from the evil, curbing these desires at the limits of righteousness, organizing the relationships between these individuals and directing them to the course of action which is best for the community as a whole was not posited for them then these drives and inclinations would contradict and oppose each other, the courses of actions would interlace so that the direction of goodness would be veiled from all. They would take dark pathways in which no individual takes any other individual into consideration and no group of individuals would have any sympathy for any other group. When the state of affairs is in this manner of opposition and lack of direction the life of the individual would be disturbed and imperfect, verging on a bestial existence, it would have no real happiness and no real purpose. The life of the group would be a demonic one in which truth and righteousness die and where the only goodness is that which agrees with one's selfish passions and desires without any accountability for anything beyond these desires in the long or short run.

This is a general description of life if it becomes void of limitations and stripped of manners and order, it is clearly the exact opposite of the primordial nature which links people to each other in the track of life, it would also sever the human

ties which Allah (Exalted is He) has meticulously woven since He created mankind as both males and females making them peoples and tribes so as to come to know each other. For this reason, and since time immemorial, Allah (Exalted is He) made it part of human nature to devise an order which would collect and unite their scattered individualities, making life comfortable for them, and preserving the causes of progress for them.

Terminology states that the law or the order which the group chooses for itself is called: positive legislation. So **man's positive legislation** is the law which the nation chooses for itself to follow in the affairs of the individuals, and to generally organize the aspects of life in it. But man's positive legislation is born from the needs of the group and the society in its own surroundings, it is "man-made", and no matter how much any human beings knows or may ever know his horizons inevitably remain limited to his own humanity, what is beyond it is unknown to him. So if you look at any individual, you will not see that he totally submits to these human positive laws, his soul would not grow to the refinement and manners needed for obedience except under the influence of an irresistible force driving him to goodness through the power of a desirable promise, and preventing him from evil through the might of a fearsome threat. For this reason a celestial legislation which is superior to any order posited by the people is needed, this is the legislation which encompasses all the needs of the people in their present and their future, determining their relationships with each other in the best way possible, and also determining their relationship

with their Creator. It would also raise that sought irresistible force which we have described earlier: the force of faith which would take over the individual internally and externally, driving him to place his own restraints over himself. For this reason, it has been Allah's way with His creation since He caused them to inhabit the earth to legislate laws for them, to send them Messengers from their own kind who would give them the good tidings of success in both worlds if they obey, and warn them of loss and the dire results of disobedience **"that mankind, after (the coming) of the apostles, should have no plea against Allah. For Allah is Exalted in Power, Wise"** [Surah of the Women: 165].

﴿لَيْسَ لَكَ يَكُونُ لِلنَّاسِ عَلَى اللَّهِ حُجَّةٌ بَعْدَ الرُّسُلِ وَكَانَ اللَّهُ

عَزِيزًا حَكِيمًا ﴿١٦٥﴾﴾ [النساء: 165]

This celestial legislation is what is called religion, faith, or the Divine law.

It is called religion because it is the manner of worshipping and judgment the follower of this religion has, it is called a faith because it is taken by way of belief and faith, and it is called a law because it is a collection of legislated rulings and clarified ways.

But since nations are like children in their progress from one phase to another, and just as a child is only given the food which he finds tasteful and which his body can digest, similarly Allah (Exalted is He) legislated for each nation only what is suitable for their own lives and what is compatible with their own minds, and what is bearable to their level of awareness. This is the secret of the multiplicity and variation

of legislations **"To each among you have we prescribed a law and an open way"** [Surah of the Table: 48].

﴿لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا﴾ [المائدة: 48]

But even if the times of these laws are different, and even if their numbers are many, they only vary in branches and actions, but they are united from the aspect of the Source from whom they issued, and the Origin unto whom they call: **"Not an apostle did We send before thee without this inspiration sent by Us to him: that there is no god but I; therefore worship and serve Me"** [Surah of the Prophet: 25].

﴿وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ مِنْ رَسُولٍ إِلَّا نُوحِيَ إِلَيْهِ أَنَّهُ لَا إِلَهَ

إِلَّا أَنَا فَاعْبُدُونِ ﴿٢٥﴾﴾ [الأنبياء: 25]

"The same religion has He established for you as that which He enjoined on Noah – the which We have sent by inspiration to thee – and that which We enjoined on Abraham, Moses, and Jesus: Namely, that ye should remain steadfast in religion, and make no divisions therein" [Surah of the Council: 13].

﴿شَرَعَ لَكُمْ مِنَ الدِّينِ مَا وَصَّى بِهِ نُوحًا وَالَّذِي أَوْحَيْنَا إِلَيْكَ

وَمَا وَصَّيْنَا بِهِ إِبْرَاهِيمَ وَمُوسَى وَعِيسَى أَنْ أَقِيمُوا الدِّينَ

وَلَا تَتَفَرَّقُوا فِيهِ﴾ [الشورى: 13]

The Holy Quran tells us about the previous religions, stating that they called to the same thing it calls to: the Unification of Allah (Exalted is He) and His Transcendence from every imperfection.

Then it tells us that Allah (Exalted is He) made for each nation its own law and approach in its worship and physical actions.

It is part of Allah's Mercy according to which His ordainment flows in beings that light would come after darkness and that rain would come after draught, so it is part of His good actions that He would send to a nation its Messenger at the time when the tyranny of ignorance is at its peak in its rule over them, and as misguidance is spread among them.

Before Islam, a thick cloud of polytheism had overtaken the world, people reached the bottom pit of degeneration, evil had overtaken the place of goodness.

The people of vice took each nation by the forelock to the extent that people found that state chaos repulsive, they felt a dire need for a Messenger who would save them from the darkness of ignorance and snatch them from the abyss of vice, taking them up to the sublimity of honor and virtue.

So the mission of Muhammad (Prayers of Allah and His Peace upon him) as a guide, a harbinger of both good tidings and warnings, and as one who calls unto Allah through His leave and a bright lantern took place.

Allah (Exalted is He) had selected him as a Seal of the Prophets after humanity reached a suitable level of intellectual maturity, and as minds and intellects became prepared and receptive for perfect guidance. So Allah (Exalted is He) sent him with guidance and the true religion to make is victorious over all other religions, and Allah suffices as a witness.

Legislation is Celestial and Humanly Posited⁽¹⁾

We said that legislation is an inevitable need for any society to maintain the existence of the group and to protect individuals through spreading security, justice, and equality among the members of the group. We also explained that Allah's Wisdom (Exalted is He) and His Mercy for His servants necessitated, and since time immemorial, that He would place a religion for people through which they would worship Him, and that this religion would outweigh any order, rules, and regulations this group selects for itself, guaranteeing for them aspects of goodness beyond what their intellects can comprehend. It has become customary to call the former form of legislation: man-made positive legislation, and the latter: celestial legislation.

So Celestial Legislation: is the sum of all commandments, prohibitions, guidelines, and principles which Allah (Exalted is He) legislates for a nation at the hand of a Messenger from that nation who calls them to act according to these laws, delivering to them the reward Allah (Exalted is He) prepared for those who obey, and the torment He prepared for those who disobey.

Man-made positive legislation: is the the sum of the order, rules, and regulations the ruler or government at the time chooses within the group and which they agree among themselves as their reference and according to which they deal with each other.

(1) The original text simply divides legislation into Divine legislation and positive legislation, but as this simplification can be misleading since there are schools which differentiate human positive law from Divine positive law whilst maintaining that both forms of legislation is positive, we selected to translate the term "positive law" [Qanun Wad'i] as the human or man-made positive law as this is what the term means in the author's work [Translator's note].

The Necessity of the Difference between the Celestial and the Humanly Posited

There are several aspects from which the Celestial legislation is different from the human positive one, the most important of these are the following:

a- The purpose of the Celestial legislation is to shape the human being according to a higher moral prototype and example. It nourishes the purity of heart, the highness of the soul, the wakefulness of conscience, the sense of duty in the human being. It has the purpose of strengthening the ties between a human being with his fellow human beings on the one hand, and of the human being with his Creator on the other making both in the most perfect manner possible. This is in contrast to man-made positive law, for it merely concerns itself with what a person has to do in relationship to society. So even if it pertains to an individual, it does so in the manner which relates to the society as a whole. An example of this is compulsory elementary learning, the purpose of this is to make an individual more capable of being beneficial to others. The main moral values are the ones which limit crimes rather than ones which truly refine souls.

b- Celestial Laws are both positive and negative, meaning that they command goodness and make it desirable through good promise, and they prohibit evil and harmful things, making them repulsive through frightful threats and great scolding, so they have both the occurrence of what is good and the prevention of what is evil as their primal purpose. As for the man-made positive laws, their first concern is the

prevention of what evil and harmful within society. If they command an individual to perform an act of goodness then this is as a secondary and indirect purpose not as the essential purpose of these actions. For this reason they are merely negative, or they are more negative than positive.

c- Celestial Laws are religions through which worship takes place. Heeding them results in Divine reward and disobeying them results in Divine punishment in the Hereafter. So the origin of the reward carried by them is what pertains to the Hereafter. If certain ordained or non-ordained punishments are decided based on these laws which the rulers should execute, then this is for deterring the unruly souls which are not deterred from transgression except if they directly see the torment of punishment. As for man-made positive laws, the ideas of reward and punishment are purely materialistic and which are overseen by legal and executive authorities.

d- Celestial Laws hold the individual accountable for all of his actions whether these were internal actions [pertaining to the heart and the mind], external actions, or preparatory acts which are means to other acts. Man-made positive laws hold the human being accountable for some of his actions which mostly have to do with transgression against others such as usurping their property, or inflicting bodily harm on them, or influencing the public opinion with what disagrees with the established order.

e- As Celestial Legislation is posited by Allah (Exalted is He), and He encompasses all the affairs of His servants whether these affairs were minor or major. As a result it would always be just and it will always fulfill all the aspects of their interests which Allah knows and they do not until the

time placed for this legislation to end. This is in contrast to man-made positive orders, for it is the act of the legislators who have authority within a group of humans. There is no doubt that man-made positive legislation is influenced in its formation and action by social factors such as customs, habits, and the environment. It is also influenced by natural factors such as the time, the place, and the weather. All of these factors or most of them are subject to change, so the law devised by the legislator at one state is not suitable for another state in which these influences changed and in which thoughts took another direction. No matter how deep a human being's thoughts go and no matter how advanced in knowledge he becomes, he could never foretell all what will happen next and cannot also make the people take one course of life at all times. This is why you always see that man-made positive laws imperfect and are in constant need of further completion if not alteration. Otherwise they will lose touch with the very reality they were intended to regulate, this imperfection is what men of law and legislation try to avoid through interpretations and alterations.

f- Man-made positive laws can permit what Celestial laws had forbidden such as selling alcohol, the opening of Casinos, monetary dealing based on usury and so on claiming that this would reap benefits to the people, or at least that it is not harmful. It can also forbid things which are permissible or even mandatory in Celestial Legislation such as preventing the gathering of people at certain times, or preventing them from planting cotton in a certain measures, or preventing them from marriage except at a certain age, or it does not

permit cutting off the thief's hand or the whipping of the drinker of alcohol under claims of mercy or civility.

This is a summary of the difference between the two types of legislation, here it is clear that passions, desires, variable factors, the legislator's point of view, his knowledge and other things all have a great influence over man-made positive law.

The Stages which Islamic Legislation went through

Scholars devised two ways of dividing the stages unto which Islamic legislation can be divided into:

The first: is considering it analogous to a human being, so just as a human being goes through the stages of childhood, then youth, then maturity, then old age, so does Islamic jurisprudence in its developments.

The second: is based on the observation of differences and distinctions which have an apparent effect on legislation and through which its historical periods can be divided. This is divided into six parts, we have preferred this way as it is clearer and more detailed, here is the clarification of these stages:

The first stage: legislation at the time of the Prophet (Prayers of Allah and His Peace upon him).

The second stage: legislation at the time of the Righteous Caliphs.

The third stage: legislation in the period between the end of the age of the Caliphs until the beginning of the second century of the Hijra.

The fourth stage: legislation in the period between the beginning of the second Hijri century and the middle of the fourth Hijri century.

The fifth stage: legislation between the middle of the fourth Hijri century until the fall of the Abbasid Caliphate.

The sixth stage: from the fall of the Abbasid Caliphate until the present day.

The First Stage: The State of the Arabs at the Time of the Mission of the Messenger (Prayers of Allah and His Peace upon him)

Before the mission of the Prophet (Prayers of Allah and His Peace upon him) the Arabs were a nation lacking order, barbarity was prevalent. They lived in the darkness of ignorance, unbound by religion, submitting to no law. One of the effects of this was that their minds became filled with false beliefs. Sometimes they would attribute an imagined divinity in the objects they construct and sculpture with their own hands, sometimes they would imagine it in the planets and stars which appear and vanish before their sights. Each of them believed that the truth lies in what he was raised to believe and what he inherited from his fathers and that greatness solely lies in what is prevalent and customary in his tribe.

They only had a few regulations through which they would determine their disagreements in addition to their own good habits and noble and good inclinations which remained with them from the law of their forefather, Ishmael. Some of these inclinations also descended to them from the Jewish and Christian religions which had adherents who lived among them or who were near their countries as some Christians and Jews did migrate to the Arabian lands for various purposes and reasons. They were guided to other such inclinations

The fifth stage: legislation between the middle of the fourth Hijri century until the fall of the Abbasid Caliphate.

The sixth stage: from the fall of the Abbasid Caliphate until the present day.

The First Stage: The State of the Arabs at the Time of the Mission of the Messenger (Prayers of Allah and His Peace upon him)

Before the mission of the Prophet (Prayers of Allah and His Peace upon him) the Arabs were a nation lacking order, barbarity was prevalent. They lived in the darkness of ignorance, unbound by religion, submitting to no law. One of the effects of this was that their minds became filled with false beliefs. Sometimes they would attribute an imagined divinity in the objects they construct and sculpture with their own hands, sometimes they would imagine it in the planets and stars which appear and vanish before their sights. Each of them believed that the truth lies in what he was raised to believe and what he inherited from his fathers and that greatness solely lies in what is prevalent and customary in his tribe.

They only had a few regulations through which they would determine their disagreements in addition to their own good habits and noble and good inclinations which remained with them from the law of their forefather, Ishmael. Some of these inclinations also descended to them from the Jewish and Christian religions which had adherents who lived among them or who were near their countries as some Christians and Jews did migrate to the Arabian lands for various purposes and reasons. They were guided to other such inclinations

through experience and by way of customs and habits, one example of this is what they said about the death penalty: "Killing would further prevent killing" and also "Indemnity is on the one with the mind if killing was by mistake". The system of division of inherited money was known by them, they had laws for divorce and a social system in which the seeker of marriage is required to ask for the woman's hand in marriage from her guardian, paying a dowry for her before she is wed to him.

But these regulations and their like were not inscribed and imposed law which would decisively resolve disagreements and preserve rights, it was not written texts accepted as reference by all people so as to apply to all people or even to most of them. These were more like guidelines which held little import and which were insufficient to achieve order or to deter the people from corruption.

Their state of affairs remained in the manner which we have described until Allah (Exalted is He) willed that the arid lands of the Arabian Peninsula would be the cradle from which Islam would grow and the rising place of the sun of knowledge and guidance to the entirety of the world, and that those rough Bedouins would be the ones to call to the true religion, the guardians defending its house, and the ones to preserve its sanctity. And Allah (Exalted is He) knows best where to place His Message.

Legislation at the Age of Prophethood

Islam came to all the people, but it began with the reformation of the affairs of the Arabs whom Allah (Exalted

is He) had selected as the supporters of His religion and the ones to call to it. The affairs of the Arabs as we have already seen stood on two grounds: paganism in religion and chaos in social order. Snatching them from this barbarism and selecting them for the support of Allah's religion was impossible without setting these two affairs in them right so that the creed of Allah's Unity (Exalted is He) would be planted in their hearts, directing them to sincere worship of His Exalted Essence, totally uprooting certain evil qualities present in their souls, and vile customs present in their dealings, implanting within them virtuous manners and noble qualities, placing for them a firm system which looks after all of their affairs so that they would live according to its guidance in all of the aspects of their lives.

Legislation in Mecca

Islam at its beginning was more concerned with setting the people's minds and hearts to the true faith as it is the foundation upon which all other things are built, so when this objective is reached then the establishment of further objectives would be possible.

For this reason, you see that as the Holy Quran was being revealed in Mecca before the *Hijra* it was more concerned with deterring them from polytheism and returning them to Divine Unification, convincing them of the honesty of the Prophets in what they inform about, and telling them stories which would serve as an example for them about the previous nations, encouraging them to look into the Dominion of the heavens and the earth and all the things which Allah (Exalted

is He) created, encouraging them to put aside imitation of their forefathers, driving them away from the effects of ignorance which they left for them such as murder, adultery, and female infanticide and teaching them the refinements and manners of Islam such as justice, loyalty, beneficence, cooperation in affairs of goodness and piety whilst not cooperating in affairs of evil and aggression. It urged them in many Verses to use their intellects with which Allah has distinguished them from the entirety of His creations to find guidance to the truth on their own, warning them not to disagree with or argue against the Prophets lest what happened to their predecessors who denied the Messengers and disobeyed the commandment of their Lord would happen to them, calling them in every manner of speech possible to cause them to budge from their old habits, ways, and manners to which they cling and to affirm within their souls the goodness He wills for them. All of this is because Arabs need a certain strictness which would lighten their testiness and soften their natures so that they would go through the approach of obedience which they are not used to and which their souls will not easily accept to adhere to. At this stage, the Holy Quran rarely refers to the second purpose, for most of the acts of worship were legislated only after the Hijra, the only things which were legislated before the Hijra are the things which have to do with the protection of the faith, such as the prohibition of eating the dead carcass, blood, and slain animals upon which the Name of Allah is not invoked.

This is the tendency which the Quran took in most of its Verses and the direction most of its statements had, for although there are more than 6000 Verses in the Holy Quran,

only two hundred relate to the judgments and their branches, all Verses other than these two hundred relate to the topics we already told you about even if their style varies in affirmation and negation, in information, commandment, prohibition, questioning, affirmation, and making oaths.

The Quran spent thirteen years in this manner until faith became firm in the souls of many, the misguidance of polytheism was removed before it, the ones who resisted the new religion eventually ran out of means to stop despite using insults and various evil arrangements to prevent it, then Allah (Exalted is He) permitted the faithful and the Prophet (Prayers of Allah and His Peace upon him) to migrate to Medina, the abode of the *Ansar* and the new homeland of the Muslims, and the source of power which will have its own new measure in delivering Allah's call to its end.

Legislation in Medina

From that time onwards, Islamic legislation moved to the second purpose, it legislated all the judgments which would arrange all the affairs of the Muslims, these affairs connected to the life of the individual and the life of the group. This arrangement extended to every aspect of life: acts of worship, dealings, religious war, crimes, inheritance and wills, marriage and divorce, oaths and atonements, all of the things which the science of jurisprudence handles and which enters into one of these affairs.

The way of legislation at the age of Prophethood was not based on the supposition and imagination of events and cases, seeking causes to branch and complicate the laws and write

down the judgments as was the familiar case in the later ages, it went with the realism, and it was based on the Muslims' attitude if taking any questionable affair to refer with it to the Prophet (Prayers of Allah and His Peace upon him), he would give the judgment on this affair through one Verse of the Quran sometimes, at other times through a number of Verses from the Quran which are revealed from Allah to him, sometimes through answers and statements which later constituted the Traditions (*Hadith*), sometimes he would demonstrate to them how to do what is to be done, at other times he would approve of an action if it is correct.

Whatever was the Messenger's answer, it only issued through an inspired revelation (*Wahy*) from his Lord, whether that inspired revelation was in the form of the Holy Quran, spoken Sunnah, Sunnah through action, or approval, "Nor does he say (aught) of (his own) Desire. It is no less than inspiration sent down to him" [Surah of the Star: 3-4].

﴿وَمَا يَنْطِقُ عَنِ الْهَوَىٰ ۚ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ﴾ [النجم: 3، 4]

name We should certainly seize him by his right hand"
[Surah of the Reality, 44-45].

﴿وَلَوْ نَقُولُ عَلَيْنَا بَعْضُ الْأَقَاوِيلِ ۚ لَأَخَذْنَا مِنْهُ بِالْيَمِينِ﴾ [الحاقة: 44، 45]

Three things are summarized for you from all of this:

First: That the authority of legislation at that time belonged to the Prophet (Prayers of Allah and His Peace upon him) alone, nobody else intervened in it, and that his reference in legislation was inspiration in its two aspects: the recited which the Holy Quran, and that which is not recited

which is the Sunnah, so there was no way for disagreement about any of the judgments.

Second: That the Verses of judgments were revealed due to an occasion or in response to a question, very few of them were not preceded by an incident or a question, we will identify some of these causes and the usefulness of knowing them in understanding the Book when we discuss the Holy Quran.

Third: That Islamic jurisprudence was not affirmed all at once, but in consecutive parts through Quranic Verses or Prophetic Tradition.

The jurists refer to the Verses of legislation as the Verses of the Judgments [*Ayat Al-Ahkam*], they also call the Traditions referring to judgments as the Traditions of Judgments [*Ahadith Al-Ahkam*].

You will perhaps wonder after all of this: How can we say that the sole source of legislation in the Prophetic age was only the Quran and the Sunnah while it is known that the Prophet (Prayers of Allah and His Peace upon him) was diligent in some of the judgments, and approved the diligence of some of the Companions in other judgments? An example of the former is his permission to the hypocrites who excused themselves from going to the Jihad in the battle of Tabuk to stay behind, an example of the latter is when he agreed with Abu Bakr when he accepted the ransom for the captives of Badr, and based on this we can consider diligence as a source of legislation beside the Quran and the Sunnah.

The answer is that the Prophet (Prayers of Allah and His Peace upon him) used diligence when there was a need for it

and when the Divine Revelation was delayed in that affair, then the Revelation would descend upon him after this either approving of his diligence or pointing out the error in it, so even in this diligence, the Divine Revelation is the reference.

As for the diligence of the Companions, it took place only when there is a long distance between them and the Messenger (Prayers of Allah and His Peace upon him) or out of fear of a loss of an opportunity, when they return to the Prophet (Prayers of Allah and His Peace upon him), he would clarify the aspects of the judgments of what they were diligent about, whether the judgment was correct or incorrect, so the reference of their diligence in the end was the Sunnah, so diligence was not a source of legislation at that age, a more detailed discussion will come when we discuss diligence later.

The Source of Legislation

1- The Book

This is the Clarifying Quran, the precious treasure, the pillar of faith and the foundation of religion, Allah (Exalted is He) placed the knowledge of all things in it, clarifying guidance from misguidance. So it is the spring of wisdom, the sign of the Message, the light of sights and insights, the one who knows it by way of realization knows the entirety of the Law, Allah (Exalted is He) says: **“and We have sent down to thee the Book explaining all things”** [Surah of the Bee: 89].

﴿وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِّكُلِّ شَيْءٍ﴾ [النحل: 89]

And He also says: **“Nothing have we omitted from the Book”** [Surah of the Livestock: 38].

﴿مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ﴾ [الأنعام: 38]

The Tradition states: “This Quran is Allah’s tight rope, the clarifying light, the useful remedy, it is a preservation for those who uphold it and a deliverance for those who follow it, it is not crooked so as to be straightened, it never deviates so as to be scolded, so if what you wish for is knowledge, then recite the Quran for it includes the knowledge of the predecessors and the later ones”.

But the Quran’s definition of the judgments is for most parts universal and not particular, summed and not detailed, so understanding its realities needs the reference to the Sunnah which clarifies it and explains must of what is not stated in it, this is an honor with which Allah (Exalted is He) honored this nation, for He did not neglect their intellects, and did not dictate to them the detailed judgments as was the case with the previous nations, this is so the Islamic Law would be universal, and so that its rules would remain constant and no alter annulment or alteration would take place in them.

The scholars of the principles of religion were concerned with defining the Quran and determining it so as to clarify which texts are permissible to recite during prayers and which are not, which are solid proof in deriving judgments and which are indecisive proofs, which texts would cause one to be infidel should he deny their veracity and which do not. They said: The Quran is the Book revealed and descended

upon our Master Muhammad (Prayers of Allah and His Peace upon him) with Arabic words, transmitted through *Tawatur* [consecutive transmission by many trustworthy members of the nation to many members of nation so that it cannot be conceived that they would all agree to lie] beginning with Surah of Al-Fatiha and ending with the Surah of Mankind. Based on this, the translation of the Quran is not called "Quran", it is merely an interpretation of the Quran, whether this translation is literal or not, and so is the case with the irregular manner of recital, which is the one which is not transmitted through *Tawatur* such as the recital of Ibn Mas'ud such "if they return 'in them' then Allah is Forgiving, Merciful", and "On the inheritor 'of kinship' the like of this", and his recital in the atonement for the oath: "And he who does not find this must fast three 'consecutive' days".

How was the Holy Quran Revealed and Descended

Its Descent according to Events and Occasions

Allah (Exalted is He) says: "(It is) a Qur'an which We have divided (into parts from time to time), in order that thou mightest recite it to men at intervals: We have revealed it by stages" [Surah of the Night Journey: 106].

﴿وَقُرْءَانًا فَرَقْنَاهُ لِتَقْرَأَهُ عَلَى النَّاسِ عَلَى مُكْثٍ وَنَزَّلْنَاهُ تَنْزِيلًا﴾ [الإسراء: 106]

And He also says (Exalted is He): "Those who reject Faith say: "Why is not the Qur'an revealed to him all at once? Thus (is it revealed), that We may strengthen thy

heart thereby, and We have rehearsed it to thee in slow, well-arranged stages, gradually" [Surah of the Criterion: 32].

﴿وَقَالَ الَّذِينَ كَفَرُوا لَوْلَا نُزِّلَ عَلَيْهِ الْقُرْءَانُ جُمْلَةً وَاحِدَةً كَذَلِكَ لِنُثَبِّتَ بِهِ فُؤَادَكَ وَرَتَّلْنَاهُ تَرْتِيلًا﴾ [الفرقان: 32]

It is clear from this that the Quran was not revealed and descended all at once to the Prophet (Prayers of Allah and His Peace upon him) as was the case with the Torah to Moses (Peace upon him), it was revealed according to the events and to clarify the judgment of the occurrences which took place, or to answer questions. An example of it being revealed according to events is Allah's saying: "Do not marry unbelieving women (idolaters), until they believe" [Surah of the Cow: 221].

﴿وَلَا تَنْكِحُوا الْمُشْرِكِيْنَ حَتَّى يُؤْمِنُ﴾ [البقرة: 221]

The scholars maintain that it was descended concerning Murthid Al-Ghunwi, the Messenger (Prayers of Allah and His Peace upon him) sent him to Mecca to carry the weak among the Muslims, a women from the pagans offered him to sleep with her, she had beauty and money, he turned away from her out of fear from Allah, then she came to him asking him to marry her, he accepted on the condition of asking the Prophet (Prayers of Allah and His Peace upon him), when he returned to him he asked him for permission to marry her, and this Verses was revealed.

Another is Allah's saying: "We have sent down to thee the Book in truth, that thou mightest judge between men,

as guided by Allah. so be not (used) as an advocate by those who betray their trust" [Surah of the Women: 105].

﴿ إِنَّا أَنْزَلْنَاهُ إِلَيْكَ بِالْحَقِّ لِنُحْكِمَ بَيْنَ النَّاسِ بِمَا أَرَبَكَ اللَّهُ وَلَا تَكُنَ لِلْخَائِنِينَ

خَصِيمًا ﴿١٠٥﴾ [النساء: 105]

And several Verses after it, these were revealed and descended about a man from Bani Thafar called: Tu'mah Ibn Ubayraq, he had stolen a shield from a neighbor of his called: Qutadah Ibn An-Nu'man in a bag of flour and he hid it with Zayd Ibn As-Samin who was a Jew, the shield was sought in Tu'mah's house and was not found there, he swore that he did not take it and knows nothing about it, they let him go and followed the trail of the flour until it reached the Jew's house, they took the shield and he said: Tu'mah gave it to me, people among the Jews testified to this. Bani Thafar said: Let's go to the Messenger of Allah (Prayers of Allah and His Peace upon him), they asked him to argue for the case of their relative, they said: If you do not do this then he would be destroyed and the Jew would be innocent. So these Verses were revealed.

An example of the Quran being revealed to answer question is Allah's saying: "They ask thee concerning orphans" [Surah of the Cow: 220].

﴿ وَيَسْأَلُونَكَ عَنِ الْيَتَامَىٰ ﴾ [البقرة: 220]

And His saying: "They ask thee what they should spend (In charity)" [Surah of the Cow: 215].

﴿ يَسْأَلُونَكَ مَاذَا يُنْفِقُونَ ﴾ [البقرة: 215]

And His saying: "They ask thee concerning women's courses" [Surah of the Cow: 222].

﴿ وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ ﴾ [البقرة: 222]

And His saying: "They ask thy instruction concerning the women" [Surah of the Women: 127].

﴿ وَيَسْتَفْتُونَكَ فِي النِّسَاءِ ﴾ [النساء: 127]

And His saying: "They ask thee concerning (things taken as) spoils of war" [Surah of the Spoils of War: 1].

﴿ يَسْأَلُونَكَ عَنِ الْأَنْفَالِ ﴾ [الأنفال: 1]

It was rare that the Quran would descend without being preceded by an event or a question, but with the answer of the event or the rule about the event another judgment can be revealed which is closely connected to the first judgment, an example of this is Allah's saying: "They ask thy instruction concerning the women say: Allah doth instruct you about them" [Surah of the Women: 127].

﴿ وَيَسْتَفْتُونَكَ فِي النِّسَاءِ قُلِ اللَّهُ يُفْتِيكُمْ فِيهِنَّ ﴾ [النساء: 127]

For the question was about marrying orphaned women, they were answered about this with an increased rule of beneficence to the parents and justice to the orphans.

Another example of this is Allah's saying: "Nor marry (your girls) to unbelievers until they believe" [Surah of the Cow: 221].

﴿ وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا ﴾ [البقرة: 221]

For it was revealed with the first Verse whose cause is the story of Murthid Al-Ghunwi which you have already known.

The Descent of the Quran in Separate Parts and Portions and the Wisdom behind this

The Quran kept on being revealed and descended upon the Messenger of Allah (Prayers of Allah and His Peace upon him) in separate parts and portions according to the events and occasions, sometimes as Surah in its entirety would be revealed to him as was the case in Al-Fatiha and the Surah of the Cloaked one, and as was the case in the Surah of the Livestock which was all revealed at once in Mecca except for three Verses which were revealed in Medina. At other times ten Verses would be revealed to him as was the case with the story of the Aspersions (*Ifk*) and the beginning of the Surah of the Believers, sometimes five Verses would be revealed to him and this has happened often. There are even times when a part of a Verse was revealed to him such as Allah's saying: "and receive no hurt" [Surah of the Women: 95].

﴿عَرَّأُولَى الضَّرَرِ﴾ [النساء: 95]

Which was revealed after the revelation of Allah's saying: "Not equal are those believers who sit (at home)" [Surah of the Women: 95].

﴿لَا يَسْتَوِ الْقَاعِدُونَ مِنَ الْمُؤْمِنِينَ﴾ [النساء: 95]

And such as Allah's saying: "And if ye fear poverty, soon will Allah enrich you, if He wills, out of His bounty, for Allah is All-knowing, All-wise" [Surah of the Repentance: 28].

﴿وَإِنْ خِفْتُمْ عَيْلَةً فَسَوْفَ يُغْنِيكُمُ اللَّهُ مِنْ فَضْلِهِ إِنْ شَاءَ إِنَّ اللَّهَ عَلِيمٌ

حَكِيمٌ﴾ [التوبة: 28]

For it was revealed after the revelation of Allah's saying: "O ye who believe! Truly the Pagans are unclean; so let them not, after this year of theirs, approach the Sacred Mosque" [Surah of the Repentance: 28].

﴿يَتَأَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ

بَعْدَ عَامِهِمْ هَذَا﴾ [التوبة: 28]

The affair remained in this manner until the Law was perfected with the completion of the descent and revelation of the Quran.

The scholars mentioned several aspects for the wisdom behind its descent in the form of separate parts:

One is to strengthen the heart of the Messenger through it so that he would understand it and learn it, for the Messenger (Prayers of Allah and His Peace upon him) was illiterate who neither read nor wrote, as for the other Messengers before him, they were literate, they read and wrote and thus it was possible for them to write and preserve the Books which were revealed to them all at once, this is what Allah (Exalted is He) referred to in His saying: "Thus (is it revealed), that We may strengthen thy heart thereby" [Surah of the Criterion: 32].

﴿كَذَلِكَ لِنُثَبِّتَ بِهِ فُؤَادَكَ﴾ [الفرقان: 32]

Another aspect is that Allah's wisdom (Exalted is He) necessitated that there would be parts of the Quran which

would annul other parts, this would only take place in what is revealed gradually and in separate portions.

Another aspect: is that wisdom necessitated that there would be parts of it which would be replies to questions, and parts of it which are for the clarification of an event which would make it more acceptable and easier to obey, this would only take place if it was revealed gradually and in portions.

Another aspect is that its dispersion is a form of mercy to the servants, for they were in a state of total libertinism before Islam, if the Holy Quran was revealed to them all at once then the obligations they were charged with would be heavy, so their hearts would feel detestation for the commandments and prohibitions present in it.

This is clearly stated by what Al-Bukhari related about Aisha (Allah be pleased with her) that she said: "The first thing which descended from the Quran is a Surah from the detailed Verses is one which mentions Paradise and Hellfire, so when people returned to Islam, then the permissible and the prohibited were revealed, if the first thing which was revealed said: Do not drink wine, they would have said: we will never leave drinking wine, if it was: do not commit adultery, then they would have said: We will never leave committing adultery".

What remain is to reconcile Allah's saying: **"We have indeed revealed this (Message) in the Night of Power"** [Surah of the Night of Power: 1].

﴿إِنَّا أَنْزَلْنَاهُ فِي لَيْلَةِ الْقَدْرِ﴾ [القدر: 1]

And what you have already seen about the Holy Quran being revealed and descended in separate portions. The closest way of reconciliation is to say: The meaning of its descent at the Night of Power means the beginning of its descent, it is beyond any doubt that the beginning of the descent of the Holy Quran was at that night as you will know.

The Usefulness of Knowing the Causes of the Descent⁽¹⁾

You have already seen that the Holy Quran was being revealed according to occurrences and occasions which are called: The causes of revelation. The knowledge of these causes carries a great import in understanding and interpreting the Holy Quran in the correct aspect, so they are inward connections which aid one to understand the Holy Quran in a correct manner, knowing its purposes and what it aims at in the best manner possible, this is clear from the following two examples:

It is related about Marwan Ibn Al-Hakam that he had a problem in understanding Allah's saying: **"Think not that those who exult in what they have brought about, and love to be praised for what they have not done,- think escape the penalty"** [Surah of the Household of Imran: 188].

(1) From here until the section titled: "Writing the Quran and Learning It" is not required in the course, it is mentioned as knowledge of it is necessary.

﴿ لَا تَحْسَبَنَّ الَّذِينَ يَفْرَحُونَ بِمَا أَتَوْا وَيُحِبُّونَ أَنْ يُحْمَدُوا بِمَا لَمْ يَفْعَلُوا فَلَا تَحْسَبَنَّهُمْ

بِمَفَازٍ مِنَ الْعَذَابِ ﴾ [آل عمران: 188]

He said: "If each person who exults in what he has brought and who loves to be praised for what he has not done would be tormented, then we will all be tormented!", then Ibn Abbas (Allah be pleased with him and his father) clarified to him that this Verses was revealed concerning the people of the Book, for when the Prophet (Prayers of Allah and His Peace upon him) asked them about something, they concealed it from him and told him something different from the truth, showing him that they have told him what he asked about and sought his praise for it, when this was clarified for him he no longer had a problem with understanding it.

It is also revealed that Qudamah Ibn Math'un was accused of drinking alcohol, the proof of this was shown to be decisive in the presence of Omar (Allah be pleased with him), Omar said: O Qudamah, I am going to order you whipped. He said: By Allah, if I drink in the manner they say, then you would not be permitted to while me! Omar said: And why is this? He said: Because Allah says: **"On those who believe and do deeds of righteousness there is no blame"** [Surah of the Table: 93].

﴿ لَيْسَ عَلَى الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ جُنَاحٌ ﴾ [المائدة: 93]

Until the end of the Verse, I am one of those who and believe, and do deeds of righteousness,- (or) again, guard themselves from evil and believe,- (or) again, guard themselves from evil and do good, I have seen Badr, Uhud, Al-Khandaq and all the sights with the Messenger of Allah

(Prayers of Allah and His Peace upon him)". Omar said: "Would you reply to what he said?", Ibn Abbas said: "These Verses were revealed to excuse those who died, and as a proof against those who are still alive, the excuse of those who died is that they have met Allah before alcohol was forbidden to them, it is a proof against those who are still alive because Allah says: **"O ye who believe! Intoxicants and gambling"** [Surah of the Table: 90].

﴿ يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ ﴾ [المائدة: 90]

And so on until the end of the two Verses. So if he is one of those who and believe, and do deeds of righteousness,- (or) again, guard themselves from evil and believe,- (or) again, guard themselves from evil and do good, then Allah has prohibited the drinking of alcohol". Omar said: "You say the truth".

The First Verse and the Last Verse to be Revealed from the Quran

The Quran was revealed in separate parts and portions over a period of twenty three years, the beginning of its descent and revelation, as related by Ibn Sa'd, is on Monday the 17th of Ramadan in forty first year after the birth of the Prophet (Prayers of Allah and His Peace upon him), this was in the cavern of Hira' when the Revelation surprised him, the trustworthy Gabriel descended to him, and then occurred what Al-Bukhari narrated from Aisha, the mother of the faithful (Allah be pleased with her) in the chapter on the beginning of the Revelation, that Gabriel embraced

Messenger (Prayers of Allah and His Peace upon him) heavily three times and said: "Read" while the Messenger (Prayers of Allah and His Peace upon him) said: "I am no reader" until Gabriel said in the third time: **"Proclaim! (or read!) in the name of thy Lord and Cherisher, Who created -Created man, out of a (mere) clot of congealed blood: Proclaim! And thy Lord is Most Bountiful, - He Who taught (the use of) the pen -, Taught man that which he knew not"** [Surah of the Clot of Blood: 1-5].

﴿أَقْرَأْ بِاسْمِ رَبِّكَ الَّذِي خَلَقَ ۝١ خَلَقَ الْإِنْسَانَ مِنْ عَلَقٍ ۝٢ اقْرَأْ وَرَبُّكَ الْأَكْرَمُ ۝٣ الَّذِي عَلَّمَ

بِالْقَلَمِ ۝٤ عَلَّمَ الْإِنْسَانَ مَا لَمْ يَعْلَمْ ۝٥﴾ [العلق: 1 - 5]

So these Verses were the first to be revealed from the Quran, this is what Aisha and most of the Companions said.

It is related from Jabir Ibn Abdullah that the first Verse to be revealed was Allah's saying: **"O thou wrapped up (in the mantle)!"** [Surah of One wrapped up: 1].

﴿يَا أَيُّهَا الْمُدَّثِّرُ ۝١﴾ [المدثر: 1]

The first view is likelier to be true as the Messenger's statement: "I am no reader" indicates clearly that he (Prayers and Peace upon him) did not read anything before this, and that nothing was revealed to him earlier.

It is also related in the Tradition narrated by Jabir that the Messenger (Prayers of Allah and His Peace upon him) said: "I raised my head, and the angel who came to me in Hera' was there, I returned to my family, I said: Cover me, veil me, Allah (Exalted is He) then revealed His saying: **"O thou wrapped up (in the mantle)!"**". This clearly indicates that

the Surah of the Cloaked One was revealed after the revelation of "Read".

This is why the scholars interpreted the Tradition of Jabir (Allah be pleased with him) in several ways all of which are suitable to reconcile what he said with what most of the Companions said.

One is that "The Cloaked One" was the first Verse to be revealed after the Revelation ceased for a while.

Another is that it is the first Surah to be revealed in its entirety in the Holy Quran.

Another is that it is the first thing pertaining to the Message to be revealed from the Holy Quran, for it is said in it: **"Arise and deliver thy warning!"** [Surah of the Cloaked One: 2].

﴿قُمْ فَأَنْذِرْ ۝٢﴾ [المدثر: 2]

As for Allah's saying: **"Read"** [Surah of the Clot of Blood: 1].

﴿أَقْرَأْ ۝١﴾ [العلق: 1]

It was the first thing to be revealed in the absolute sense, realizing Prophethood.

There is also a disagreement about the last thing to be revealed from the Holy Quran, many views exist on this matter and we will confine ourselves to the most famous of them:

It was said that the last thing to be revealed from the Holy Quran was Allah's saying: **"This day have I perfected your religion for you"** [Surah of the Table: 3].

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ ۝٣﴾ [المائدة: 3]

As-Saddi said: Neither permission nor prohibition were revealed after it. It is narrated in the correct Tradition that Al-Bura' Ibn 'Azib said that the last Verse to be revealed was 12 from the Surah of the Women. Muslim narrates from Ibn Abbas that he had said: The last Surah to be revealed is Allah's saying: **"When comes the Help of Allah, and Victory"** [Surah of the Divine Support: 1].

﴿إِذَا جَاءَ نَصْرُ اللَّهِ﴾

The best of these views and the one worthiest of consideration is that the last thing to be revealed from the Holy Quran is Allah's saying: **"And fear the Day when ye shall be brought back to Allah. Then shall every soul be paid what it earned, and none shall be dealt with unjustly"** [Surah of the Cow: 281].

﴿وَاتَّقُوا يَوْمًا تُرْجَعُونَ فِيهِ إِلَى اللَّهِ ثُمَّ تُوَفَّى كُلُّ نَفْسٍ مَا كَسَبَتْ وَهُمْ لَا

يُظْلَمُونَ ﴿٢٨١﴾ [البقرة: 281]

More than one source narrated from Ibn Abbas (Allah be pleased with him and his father) stated that the last Verse to be revealed from the Quran is Allah's saying: **"And fear the Day when ye shall be brought back to Allah"** [Surah of the Cow: 281].

﴿وَاتَّقُوا يَوْمًا تُرْجَعُونَ فِيهِ إِلَى اللَّهِ﴾ [البقرة: 281]

According to this, one must understand that what Al-Bukhari narrated from Ibn Abbas also that the last Verse to be revealed to the Messenger of Allah (Prayers of Allah and His Peace upon him) was the Verse about usury must be understood as the Verse with which the Verses about usury

ended so that it would agree with the many narrations stating that it is: **"And fear the Day when ye shall be brought back to Allah"** [Surah of the Cow: 281].

﴿وَاتَّقُوا يَوْمًا تُرْجَعُونَ فِيهِ إِلَى اللَّهِ﴾ [البقرة: 281]

This Verse was revealed to the Prophet (Prayers of Allah and His Peace upon him) after the Farewell Pilgrimage, it is a reference to the nearness of his death (Prayers of Allah and His Peace upon him), for it is narrated that the Prophet (Prayers of Allah and His Peace upon him) died nine nights, or some said seven days, and others said twenty one days after it. Before this, the Surah of the Divine Support was revealed to him at the days of the Eid, and the Prophet (Prayers of Allah and His Peace upon him) understood it to refer to the nearness of his death.

As for Allah's saying: **"This day have I perfected your religion for you, completed My favor upon you, and have chosen for you Islam as your religion"** [Surah of the Table: 3].

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتِمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ

الْإِسْلَامَ دِينًا﴾ [المائدة: 3]

As all scholars agree, it was revealed on the Day of 'Arafah in the Farewell Pilgrimage before the revelation of the Surah of the Divine Support and the Verse in the Surah of the Cow, so the view that it is the last thing to be revealed is incorrect unless one means that it is the last Verse to be revealed clarifying the perfection of religion and the completion of its judgments, so no Verse about the permissible or the prohibited was revealed after it as As-Saddi

said. But then there is nothing to prevent a revelation pertaining to preaching and guidance after it as is the case in the Surah of the Divine Support and the Verse in the Surah of the Cow.

As for the Verse in the Surah of the Women which was also said to be the last Verse to be revealed, its revelation took place before the Verse within the Surah of the Table, so it is possible that what is said about it means that it is the last of the Verses of the judgments to be revealed, this does not contradict what we said as it is apparent.

Also it is important to know that the Holy Quran was revealed according to "seven letters" as stated by the Prophet (Prayers of Allah and His Peace upon him) when he said: "The Quran was revealed according to seven letters".

The scholars disagreed greatly as to what is meant by these "seven letters".

Some said that it is a reference to the seven meanings the Verses of the Holy Quran all refer to –which are the Seven Oft-Repeated Ones [*Sab' Mathani*] according to the opinion of some, and these are: the commandments, the prohibitions, the promises, the threats, permissibility, guidance, and taking heed.

Some said that they are the seven pairs of ways of recital of the letters within the Holy Quran which are: *Idgham* [making one letter contained in the other], *Ith-har* [causing both recited letters near each other to appear], *Tafkhim* [giving great stress to the letter], *Tarqiq* [giving little stress to the letter], *Imalah* [causing a letter to slightly sound like another], *Ishba'* [causing a letter to completely sound like

another letter], *Madd* [extension of the recital of the letter], *Qassr* [shortening the recital of the letter], *Tashdeed* [stressing certain letters], *Takhfif* [pronouncing certain letters lightly], *Talyeen* [softly pronouncing a letter] and *Tahqiq*, other things were said in this respect.

The best of these views is that they are the seven languages or Arabic language dialects which were the most renowned, common, and easy to understand among the Arabs. These are: the languages of Quraish, Huthail, Tamim, Al-Azd, Rabi'ah, Hawazin, and Sa'd Ibn Bakr. Al-Bayhaqi maintained that this view is correct and Ibn 'Atiyyah chose it. Tha'lab, Abu 'Ubaid, and Al-Azhari maintained it among the linguists.

This does not mean that each word within the Quran is recited with all of these dialects, the meaning of being revealed according to them is that it does not part with them, so the word would either be according to the dialect of Quraish and it often is, or according to the dialect of another tribe because it is purer and more eloquent than Quraish.

If one says: How could this be whilst it is narrated in Al-Bukhari that: "When Uthman (Allah be pleased with him) gathered Zayd Ibn Thabit and his companions to copy the Quran to *Mushafs* he said to them: If you disagree about anything then write it in the language of Quraish, for it was revealed in their tongue"? The answer to this has two aspects:

First: most of it was revealed in their tongue.

Second: that the Quran was first revealed in their tongue, for it was narrated that Gabriel (Peace upon him) would recite with the Chosen One (Prayers of Allah and His Peace upon

him) and each time he would do so with a different tongue until all seven were complete. Al-Bukhari narrated from Ibn Abbas that the Messenger of Allah (Prayers of Allah and His Peace upon him) said: "Gabriel recited with me according to one letter, I asked him to increase, I kept on asking him and he kept on increasing for me until he reached seven letters".

This is not to say that some of the words are recited in more than seven aspects, for we say that this originates in the difference in how the recital takes place such as extending the letters and mixing them and the like.

As-Suyuti objected to this view by saying that Omar Ibn Al-Khattab and Hisham Ibn Hakim disagreed about the recital although they are both from Quraish, this indicates that what is meant by the letters is not the languages.

The answer to this is that its descent in seven dialects does not mean that the Prophet (Prayers of Allah and His Peace upon him) confined himself to teaching each tribe the Holy Quran in the letter which agrees with its language, for his assembly (Prayers of Allah and his Peace upon him) may gather a number of different tribes, so he would recite the Quran to them in one of these letters and all of them would learn it with this letter, so the people of the one tribe may not have heard it and learnt it in one letter, so this makes it possible that Omar heard a letter which Hisham did not hear, or heard another letter in another assembly, the oneness of their tribe does not prevent this.

Writing Down the Quran and Learning It

The Prophet (Prayers of Allah and His Peace upon him) was illiterate, he neither read nor wrote as Allah (Exalted is He) says: **"And thou wast not (able) to recite a Book before this (Book came), nor art thou (able) to transcribe it with thy right hand"** [Surah of the Spider: 48].

﴿وَمَا كُنْتَ تَتْلُوا مِنْ قَبْلِهِ مِنْ كِتَابٍ وَلَا تَخُطُّهُ بِيَمِينِكَ﴾ [العنكبوت: 48]

The Prophet (Prayers of Allah and His Peace upon him) was very precise in his learning of what was revealed to him at the time of its descent, to this is the reference in Allah's saying: **"Move not thy tongue concerning the (Qur'an) to make haste therewith, It is for Us to collect it and to promulgate it. But when We have promulgated it, follow thou its recital (as promulgated. Nay more, it is for Us to explain it (and make it clear))"** [Surah of the Resurrection: 16-19].

﴿لَا تُحَرِّكْ بِهِ لِسَانَكَ لِتَعْجَلَ بِهِ ۚ إِنَّ عَلَيْنَا جَمْعَهُ وَقُرْآنَهُ ۚ فَإِذَا قَرَأْتَهُ فَاتَّبِعْ قُرْآنَهُ ۚ

﴿ثُمَّ إِنَّ عَلَيْنَا بَيَانَهُ ۚ﴾ [القيامة: 16 - 19]

The Prophet (Prayers of Allah and His Peace upon him) had writers who would write down the Holy Quran on bones, palm leaves, and soft stones available to them. What was written would be stored in the house of the Messenger of Allah (Prayers of Allah and His Peace upon him) whilst the writers would take copies of it for themselves which they would preserve, the Messenger (Prayers of Allah and His Peace upon him) would tell them the place of every Verse in its Surah.

There is no disagreement among the scholars that the arrangement of the Verses within each Surah is ordained, it is

related from Uthman Ibn Al-'As (Allah be pleased with him) that he said: I was sitting with the Messenger of Allah (Prayers of Allah and His Peace upon him), he suddenly stared far and then came back to his normal position and said: "Gabriel came to me and told me to put this Verse in this place of the Surah: **"Allah commands justice, the doing of good, and liberality to kith and kin"** [Surah of the Bee: 90].

﴿إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَنِ وَإِيتَايَ ذِي الْقُرْبَىٰ﴾ [النحل: 90]

As for the arrangement of the Surahs, it was said that it is the result of the diligence of the Companions, but it is most likely also ordained, for some of the Companions who have learnt the entirety of the Quran, such as Ibn Mas'ud, attended the revision of the Quran between Gabriel (Peace upon him) and the Prophet (Prayers of Allah and His Peace upon him) and testified that it was according to this familiar order we know in the Surahs and in the Verses.

The most famous of its writers (Allah be pleased with all of them) are: the four Caliphs, Ubayy Ibn Ka'b, Zayd Ibn Thabit, Mu'awiyah Ibn Abi Sufian, his brother Yazid, Al-Mughirah Ibn Shu'bah, Az-Zubayr Ibn Al-'Awwam, and Khalid Ibn Al-Walid.

There were among those who recited the Quran in the Prophetic age some who have learnt its entirety by heart, among these there were the following: Abdullah Ibn Mas'ud, Salem Ibn Ma'qil the slave of Abu Huthaifah, Mu'ath Ibn Jabal, Ubayy Ibn Ka'b, and Zayd Ibn Thabit.

The Meccan and Medinan Quran and the Main Characteristics of both of them

The Meccan and the Medinan

As you have already seen the Quran was revealed over a period of about twenty three years. This period is divided into two parts: the period in which the Messenger (Prayers of Allah and His Peace upon him) stayed in Mecca before the Hijra, and this period lasted for almost thirteen years, and the period in which he stayed in Medina after the Hijra and this period lasted for almost ten years. For this reason the Quran varied into Meccan and Medinan.

The division of the Quran into Meccan and Medinan is of great value in understanding the Noble Book, the knowledge of the abolishing (*Nasikh*) Verses from the abolished ones (*Mansukh*) depends on the distinction of one from the other.

The scholars have three ways of dividing the Quran into Meccan and Medinan, these are the following:

(The first): is that the Meccan is what is revealed in Mecca even if it was after the Hijra, the Medinan is what is revealed in Medina. Based on this, what was revealed during travels cannot be called either Meccan or Medinan, it is a third type.

(The second): is that the Meccan is what was addressed to the people of Mecca and the Medinan is what was addressed to the people of Medina.

(The third): and this is the most famous of these ways, is that the Meccan is what was revealed before the Hijra, and the Medinan is what was revealed after it even if this was in Mecca such as the Surah of the Divine Support and Allah's

saying: "This day have I perfected your religion for you"
[Surah of the Table: 3].

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ﴾ [المائدة: 3]

It was narrated from Yahya Ibn Salam that what was revealed in Mecca and on the way to Medina before the Prophet (Prayers of Allah and His Peace upon him) reached it is all Meccan, while what was revealed to the Prophet (Prayers of Allah and His Peace upon him) in his travels after he came to Medina is Medinan.

So we know from this that what was revealed during the travel of the Hijra is Meccan in terminology. The scholars disagreed about the determination of the Meccan from the Medinan in the Surahs of the Quran, one of them said that there are nineteen Surahs in the Quran which all agree are Medinan, those are: the Cow, the Household of Imran, the Women, the Table, the Spoils of War, the Repentance, the Light, the Clans, Muhammad, the Victory, the Inner Chambers, the Pleading Woman, the Exile, She that is to be Examined, Friday, the Hypocrites, Divorce, the Prohibition, and the Divine Support.

As for the rest, there are seventy one Surahs which all agree are Meccan, there are twenty four Surahs about which there is disagreement, these are: The Opening (Fatiha), Jonah, the Thunder, the Pilgrimage, the Criterion, the Iron, the Battle Ranks, the Haggling, Man, the Cheats, the City, the Night, Power, the Clear Proof, the Earthquake, the Chargers, the Rivalry in World Increase, Sincerity, the Daybreak, and Mankind.

The most powerful reason behind this disagreement is that many of these Surahs about which they disagreed have Meccan Verses and Medinan Verses.

The Characteristics of the Meccan and the Medinan

The scholars have derived certain characteristics through which they identify the Meccan from the Medinan even if the Surah was not determined as Meccan or Medinan, here is the clarification of this:

1-The Verses which determine the judgments, the obligations, and the limitations are mostly Medinan. As for the Meccan Verses they mostly relate to the first purpose of religion, which is Allah's Transcendent Unity, demonstrating proofs of His Existence and destroying the foundations of polytheism, motivating people to purify their hearts from vices and adorn them with noble qualities.

This is what agrees with wisdom and what is compatible with the psychological state of the people at the time, for the Messenger of Allah (Prayers of Allah and His Peace upon him) came to them at a time when polytheism has grown firm in their hearts so they were devoted to worshipping idols. They had no conception of an otherworldly life much less for a reward or punishment in it, so as they wallowed in the darkness of ignorance and misguidance what was best for them was not to legislate laws pertaining inheritance and buying and selling and so on. Therefore, the Quran at the beginning meant to uproot polytheism from their souls, removing these evils and

vices they wallowed in. So it reminded them of Allah and the Last Day, it described the Day of the Judgment to them clarifying its calamities and hardships. It also extensively described Paradise and Hellfire, giving them the examples of those who were before them and what happened to them due to what their deeds reaped for them, calling them to think about themselves and what is around them so that they would be guided if only they are would reach knowledge.

2-The second person address in the Meccan is either "O ye people" [which is sometimes translated as "O Mankind" by Yusuf Ali] or "O ye Children of Adam", whilst in the Medinan it is mostly "O ye of Faith". The second person address through "O ye people" occurred only seven times in the Medinan, two such cases are present in the Surah of the Cow: "O ye people! Adore your Guardian-Lord" [21], and "O ye people! Eat of what is on earth" [168] and four instances in the Women the first of which is in the first Verse, then Allah's saying: "If it were His will, He could destroy you, o mankind" [133], "O Mankind! The Messenger hath come to you in truth from Allah." [170], and "O mankind! verily there hath come to you a convincing proof from your Lord" [174], and one instance in the Surah of the Inner Apartments "O mankind! We created you from a single (pair) of a male and a female".

3-The Verses of the Meccan would usually come short so that the Messenger and the believers would be able to learn them easily in contrast to the Medinan. A clear example of this is the fact that the Surah of the Spoils of War is

Medinan and the number of its Verses are seventy five, while the Surah of the Poets is Meccan and the number of its Verses are 227 although both Surahs occupy half a part of the Holy Quran. Another example is the part beginning with the Surah of the Pleading Woman which is Medinan - although there is a disagreement about the Surahs of the Battle Ranks and the Haggling - and the number of its Verses is 137, while the part beginning with the Surah of the Tidings is Meccan - although there is a disagreement about parts of it as you have already known - and the number of its Verses is 570.

4-Each Surah in which the hypocrites are mentioned is Medinan -with the exception of the Surah of the Spider, for the hypocrites were not in Mecca.

5-Each Surah in which there is a prostration is Meccan except for the Surah of the Pilgrimage, for it is most likely Medinan.

6-Each Surah containing "Nay" [*Kalla*] in Arabic is Meccan, the wisdom behind this is this is a world of scolding which is worthy of the mighty inhabitants of Mecca, as for the Jews inhabiting Medina, these were people of weakness and humility, certain things must be taken into consideration in addressing them which are not taken into consideration as one addresses those other than them.

The Principles of Islamic Legislation in the Quran

Islamic legislation stood on three principles:

- a- The avoidance of Severe Difficulty
- b- The fewness of obligations
- c- Graduation in legislation

(a) The Avoidance of Severe Difficulty

There is neither difficulty nor severity in the Islamic obligations, there is nothing difficult or which would make their hearts contract.

When we say that there is no difficulty this does not negate the existence of difficulty altogether, for there are two types of difficulty

(The first) is one which is habitual and which is not habitually defined as hardship. Such a hardship is not meant to be lifted by the lawmaker as every type of work and action in life is not void of hardship. There are things whos attainment contain unavoidable difficulties which no one can do without, such as eating, drinking and wearing clothes. So the fact that there is no severe difficulty does not mean that there is no difficulty at all, for the concept of charging with obligations in itself requires a certain effort to take place.

(The second) is an increased difficulty which tightens the hearts and exhausts the efforts, affecting the person in his body or property, causing him to cease to function in many useful affairs, this is the form of difficulty which Allah graced the nation through sparing them from it as attested to by Allah's saying: **"Allah intends every facility for you; He does not want to put to difficulties"** [Surah of the Cow: 185].

﴿يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ﴾ [البقرة: 185]

"Allah doth wish to lighten your (difficulties)" [Surah of the Women: 28].

﴿يُرِيدُ اللَّهُ أَنْ يُخَفِّفَ عَنْكُمْ﴾ [النساء: 28]

"Allah doth not wish to place you in a difficulty" [Surah of the Table: 6].

﴿مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ﴾ [المائدة: 6]

"He has chosen you, and has imposed no difficulties on you in religion" [Surah of the Pilgrimage: 78].

﴿وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ﴾ [الحج: 78]

"He releases them from their heavy burdens and from the yokes that are upon them" [Surah of the Heights: 157].

﴿وَيَضَعُ عَنْهُمْ إِصْرَهُمْ وَالْأَغْلَالَ الَّتِي كَانَتْ عَلَيْهِمْ﴾ [الأعراف: 157]

The Messenger (Prayers of Allah and His Peace upon him) said: "I brought with me the tolerant Hanifi religion", it is also narrated through correct means that whenever the Prophet (Prayers of Allah and His Peace upon him) was given the choice between two things he would choose the easiest of them unless it was a thing of evil.

If you follow the judgments of the Islamic law, you will find the appearances of the avoidance of severe difficulty apparent, you would see that all the acts with which the individual is charged from their beginning and onwards are based on lightening the load and making these actions as easy for the servants as possible.

For example Allah (Exalted is He) charged the adult person with prayers five times a day, He commanded him to

do it whilst standing up which is an easy enough charge which includes no severe difficulty, despite this He permitted him to perform it while sitting down if he cannot stand up, and in whatever way he can if he cannot even sit.

It is the same with fasting, Allah (Exalted is He) charged the adult person with it for one month in a year, so difficulty in it does not rise to the level of severe and intolerable difficulty, and nonetheless He permitted him to break his fast in certain cases when difficulty surpasses the usual, allowing the travelling person, the sick person, the pregnant woman and the woman who is breast feeding to break the fast.

He had also forbidden the dead animal which died without being slain in accordance with the law, but He permitted eating it at the time of extreme hunger [when there is no hope in finding any other permissible food].

He also made it permissible to use sand for ablutions when water is missing, He also permitted the traveler to shorten the prayer, and He also legislated atonements to erase sins, and so on. All of these are affairs which indicate ease and the concept of avoidance of severe difficulty in legislation so that the resolves of the people would not turn away from fulfilling what He charged them with, and their efforts would not fall short of what He legislated for their best interests.

The jurists have derived the places of making the obligations of the law lighter, they found that it is divided into seven types:

- 1- Dropping the form of worship altogether when there is a mitigating excuse, such as dropping the charge of the

pilgrimage when there is no security on the roads leading to Mecca.

- 2- Decreasing what the person is charged with such as shortening the prayer when one is travelling.
- 3- Replacement: such as the replacement of water with sand in ablutions.
- 4- Forwarding: such as gathering the noon and the afternoon prayers in Arafat.
- 5- Delay: such as gathering the two prayers in Muzdalifah.
- 6- Alteration: such as the alteration of the order of prayer at the time of fear.
- 7- Permission: such as eating the dead animal at the time of extreme hunger when one has no possibility for any other form of permissible food, and drinking alcohol if one is choking.

(b) The Fewness of Obligations

Islamic law is distinguished from the laws preceding it with the fewness of obligations, it did not burden the backs of its followers with a great number of commandments and prohibitions, it took them through a middle path which does not have many obligations so as not to cause the person to become tired with following religion.

Look at the obligations one is charged with in Allah's Book and you will find them few in number and that they can be learned over a short period of time, they do not have too many branches and details so that learning them and acting according to them would be easier as attested to by Allah's saying: **"O ye who believe! Ask not questions about things which, if made plain to you, may cause you trouble. But if**

ye ask about things when the Qur'an is being revealed, they will be made plain to you, Allah will forgive those: for Allah is Oft-forgiving, Most Forbearing. Some people before you did ask such questions, and on that account lost their faith" [Surah of the Table: 101-102].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَسْأَلُوا عَنَ أَشْيَاءَ إِن بُدِّلَ لَكُمْ تَسْؤُكُمْ وَإِن تَسْأَلُوا عَنْهَا حِينَ يُنَزَّلُ الْقُرْءَانُ بُدِّلَ لَكُمْ عَفَا اللَّهُ عَنْهَا وَاللَّهُ غَفُورٌ حَلِيمٌ ﴿١٠١﴾ قَدْ سَأَلَهَا قَوْمٌ مِّن قَبْلِكُمْ ثُمَّ أَصْبَحُوا بِهَا كَافِرِينَ ﴿١٠٢﴾﴾ [المائدة: 101، 102]

So you see that Allah (Exalted is He) commands us not to go deep into any issue or to stress it too much so that would not be a cause for the imposition of new judgments which were not posited earlier so we would then become unable to obey due to the plentitude of the obligations, and then we would be doomed with all those who are doomed. This Verse calls that Allah has kept the obligations as few as possible so that we would not fall into hardship.

The proof of this in the Sunnah is what the Messenger (Prayers of Allah and His Peace upon him) replied with to Al-Aqra' Ibn Habiss when he asked about the pilgrimage: Do we have to do it every year, O Messenger of Allah? He said: "If I say: yes then you would be obliged to do so. Leave me as long as I leave you, for what destroyed those who were before you is the plentitude of their questions and their disagreements before their Prophets".

It is also indicated by his saying: "The one with the greatest crime among the Muslims is someone who asked about something which was not forbidden to the Muslims and which becomes forbidden due to his question". And his

saying (Prayers of Allah and His Peace upon him): "Allah has made certain actions obligatory so do not waste them, and drew limitations for you so do not exceed them, and has forbidden things from you so do not violate them, and He has not clarified the judgment of certain things not out of forgetfulness, but out of mercy for you so do not look into them", and so on, for there are several other Quranic Verses and Prophetic Traditions which assert this principle.

(c) Graduation in Legislation

Islam came whilst Arabs lived in a vast state of libertinism, they hated all things which limited their freedoms and curbed their lusts, certain habits and instincts plunged deep into their souls and they could not turn away from them all at once, so the Divine wisdom necessitated that they would not be surprised by the judgments and rules all at once so that they would not feel burdened by them, and so that their souls would not turn away from them, this is why the Quran was revealed in separate portions, and the charging judgments came about gradually so that one rule would precede the other preparing the souls and minds for the acceptance of the one after it.

Most of these judgments –as you have already seen- were revealed after causes necessitating them, making their effect in the minds more powerful and making it easier for people to obey them.

One such example is the forbidding of alcohol, for drinking alcohol became so deeply rooted in Arab lives and in their habits and minds that Divine wisdom necessitated that the Quran would be gradual in legislating the rule about it. It

did not directly say that it is forbidden at the beginning, but answered the question about alcohol and gambling by saying: "They ask thee concerning wine and gambling. Say: 'In them is great sin, and some profit, for men; but the sin is greater than the profit.'" [Surah of the Cow: 219].

﴿يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنْتَفِعٌ لِلنَّاسِ وَإِثْمُهُمَا

أَكْبَرُ مِنْ نَفْعِهِمَا﴾ [البقرة: 219]

Only one who has expertise in the secret of legislation understands that one must stop these two practices from this Verse, for anything which has great sin in it must be left as there is no action which is purely evil, so what must be taken into account in permitting something or forbidding it is the general good and the general evil.

After this indirect allusion to the necessity of leaving it due to the great sin in it, Allah (Exalted is He) prohibited people to drink while in a state of intoxication: "O ye who believe! Approach not prayers with a mind befogged" [Surah of the Women: 43].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَرَىٰ﴾ [النساء: 43]

Then He clearly stated that it is forbidden in the absolute and affirmed sense as He says: "O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination,- of Satan's handwork: eschew such (abomination), that ye may prosper. Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of Allah, and from prayer: will ye not then abstain?" [Surah of the Table: 90-91].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ

فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقَعَ بَيْنَكُمْ الْعَدَاوَةَ

وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ

أَنْتُمْ مُنْتَهُونَ ﴿٩١﴾﴾ [المائدة: 90, 91]

Also the punishment of the adulterer at the beginning of Islam did not exceed house arrest and speaking vilely to the people who did it as Allah (Exalted is He) says: "If any of your women are guilty of lewdness, Take the evidence of four (Reliable) witnesses from amongst you against them; and if they testify, confine them to house" [Surah of the Women: 15].

﴿وَالَّذِي يَأْتِيكَ الْفَاحِشَةُ مِنْ نِسَائِكَ فَاستَشْهِدُوا عَلَيْهِنَّ أَرْبَعَةً مِّنْكُمْ

فَإِنْ شَهِدُوا فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ﴾ [النساء: 15]

After this, Allah (Exalted is He) made the punishment for this stoning for the married person and flogging for the one who is not. As for stoning, it was affirmed by the Sunnah, and as for flogging it was affirmed by Allah's saying: "The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes" [Surah of the Light: 2].

﴿الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ﴾ [النور: 2]

It is the same with prayer, for at the beginning it was charged as two cycles of prayer in the hours of the early morning and two cycles of prayer at the hours of the night out of mercy and clemency for the people who were still new to

did not directly say that it is forbidden at the beginning, but answered the question about alcohol and gambling by saying: "They ask thee concerning wine and gambling. Say: "In them is great sin, and some profit, for men; but the sin is greater than the profit."" [Surah of the Cow: 219].

﴿يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنْفَعَةٌ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِنْ نَفْعِهِمَا﴾ [البقرة: 219]

Only one who has expertise in the secret of legislation understands that one must stop these two practices from this Verse, for anything which has great sin in it must be left as there is no action which is purely evil, so what must be taken into account in permitting something or forbidding it is the general good and the general evil.

After this indirect allusion to the necessity of leaving it due to the great sin in it, Allah (Exalted is He) prohibited people to drink while in a state of intoxication: "O ye who believe! Approach not prayers with a mind befogged" [Surah of the Women: 43].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَرَىٰ﴾ [النساء: 43]

Then He clearly stated that it is forbidden in the absolute and affirmed sense as He says: "O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination,- of Satan's handwork: eschew such (abomination), that ye may prosper. Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of Allah, and from prayer: will ye not then abstain?" [Surah of the Table: 90-91].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ ﴿٩١﴾﴾ [المائدة: 90، 91]

Also the punishment of the adulterer at the beginning of Islam did not exceed house arrest and speaking vilely to the people who did it as Allah (Exalted is He) says: "If any of your women are guilty of lewdness, Take the evidence of four (Reliable) witnesses from amongst you against them; and if they testify, confine them to house" [Surah of the Women: 15].

﴿وَالَّذِي يَأْتِيكَ الْفَاحِشَةُ مِنْ نِسَائِكَ فَأَسْتَشْهِدُوا عَلَيْهِنَّ أَرْبَعَةٌ مِّنْكُمْ فَإِنْ شَهِدُوا فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ﴾ [النساء: 15]

After this, Allah (Exalted is He) made the punishment for this stoning for the married person and flogging for the one who is not. As for stoning, it was affirmed by the Sunnah, and as for flogging it was affirmed by Allah's saying: "The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes" [Surah of the Light: 2].

﴿الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ﴾ [النور: 2]

It is the same with prayer, for at the beginning it was charged as two cycles of prayer in the hours of the early morning and two cycles of prayer at the hours of the night out of mercy and clemency for the people who were still new to

Islam and who did not taste its sweetness yet, and did not know the pleasure of supplication to Allah in prayer. When their souls were comfortable with them, Allah increased the number of the times of prayer and the number of cycles according to what is necessitated by practical wisdom.

As there were only a few Muslims at the beginning of Islam and at the time of its weakness so that they had not enough strength to struggle and fight with the infidels, wisdom in dealing with their affairs necessitated that they would be commanded to forgive and be patient with their enemies and to turn away from them. Allah (Exalted is He) says: "Follow what thou art taught by inspiration from thy Lord: there is no god but He: and turn aside from those who join gods with Allah" [Surah of the Livestock: 106].

﴿أَتَّبِعْ مَا أُوحِيَ إِلَيْكَ مِنْ رَبِّكَ لَا إِلَهَ إِلَّا هُوَ وَأَعْرِضْ عَنِ الْمُشْرِكِينَ﴾ [الأنعام: 106]

"Hold to forgiveness; command what is right; But turn away from the ignorant" [Surah of the Heights: 199].

﴿خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ﴾ [الأعراف: 199]

"Hour is surely coming (when this will be manifest). So overlook (any human faults) with gracious forgiveness" [Surah of Al-Hijr: 85].

﴿وَإِنَّ السَّاعَةَ لَآتِيَةٌ فَاصْفَحِ الصَّفْحَ الْجَمِيلَ﴾ [الحجر: 85]

When the Muslims became more powerful and many people entered into Allah's religion they were permitted to fight so as to defend themselves and to experience the

pleasure of victory: "To those against whom war is made, permission is given (to fight), because they are wronged;—and verily, Allah is most powerful for their aid" [Surah of the Pilgrimage: 39].

﴿أُذِنَ لِلَّذِينَ يُقَاتِلُونَ بِأَنَّهُمْ ظَلِمُوا وَإِنَّ اللَّهَ عَلَىٰ

نَصْرِهِمْ لَقَدِيرٌ﴾ [الحج: 39]

When they realized the benefit of fighting and its good end He commanded them to do it as an inevitable obligation, Allah (Exalted is He) says: "Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors. And slay them wherever ye catch them, and turn them out from where they have Turned you out; for tumult and oppression are worse than slaughter" [Surah of the Cow: 190-191].

﴿وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعَدُّوا إِلَيْكُمْ الْقَاتِلِينَ﴾ [البقرة: 190، 191]

"And fight them on until there is no more tumult or oppression, and there prevail justice and faith in Allah altogether and everywhere" [Surah of the Spoils of War: 39].

﴿وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ

كُلَّهُ لِلَّهِ﴾ [الأنفال: 39]

"and fight the Pagans all together as they fight you all together" [Surah of the Repentance: 36].

﴿وَقِيلُوا لِمُشْرِكِيكَ كَافَّةً كَمَا يَقُولُونَكُمْ كَافَّةً﴾ [التوبة: 36]

When the Prophet (Prayers of Allah and His Peace upon him) migrated to Medina, Allah (Exalted is He) did not wish to surprise the people of the Book with something different from what they are familiar with. This was directing themselves to Jerusalem in prayer, he legislated for them to direct themselves to that direction so as to attract them and clarify to them that he is not an innovator among the Prophets or one who is in disagreement with them. He is one who attests to the truth of what they were sent with having the same call they had. He is a guide to the previous Prophets' path so that faith would settle in the hearts of the people of the Book and so that they would be able to accept all what will come to them in the future. He did not wish them to be troubled when the direction of prayers eventually changed from Jerusalem to the Ka'aba in Mecca which Allah (Exalted is He) made as a spiritual center for the people. Allah (Exalted is He) says about this: **"and We appointed the Qiblah to which thou wast used, only to test those who followed the Messenger from those who would turn on their heels (From the Faith). Indeed it was (A change) momentous, except to those guided by Allah. And never would Allah Make your faith of no effect. For Allah is to all people Most surely full of kindness, Most Merciful . We see the turning of thy face (for guidance to the heavens: now Shall We turn thee to a Qiblah that shall please thee. Turn then Thy face in the direction of the sacred Mosque: Wherever ye are, turn your faces in that direction"** [Surah of the Cow: 143-144].

﴿وَمَا جَعَلْنَا الْقِبْلَةَ الَّتِي كُنْتَ عَلَيْهَا إِلَّا لِنَعْلَمَ مَنْ يَتَّبِعَ الرَّسُولَ مِمَّنْ يَنْقَلِبُ عَلَى عَقِبَيْهِ وَإِنْ كَانَتْ لَكَبِيرَةً إِلَّا عَلَى الَّذِينَ هَدَى اللَّهُ وَمَا كَانَ اللَّهُ لِيُضَيِّعَ إِيمَانَكُمْ إِنَّ اللَّهَ بِالنَّاسِ لَرُءُوفٌ رَحِيمٌ﴾ [البقرة: 143، 144]

There are many similar judgments, for this law was based on the interests of the servants, and based on this principle summation then details came about. This is obvious when once compares Meccan legislation to Medinan legislation, the Meccan is summed up and the Quran rarely handles detailed judgments in it. As for the Medinan the Quran handled many details in it, especially ones pertaining to dealings. This is why you see that most of the Verses of the judgments are Medinan, the judgments present in the Meccan are only for the purpose of the protection of the faith such as the prohibition of eating the slain animals upon which Allah's Name is not invoked.

2- The Sunnah

Discussion of the Sunnah has certain points: its definition, its binding force in legislation, and its level in legislation.

The Definition of the Sunnah

The word *Sunnah* in Arabic means path whether it was good or bad, an example of this is what the Prophet (Prayers of Allah and His Peace upon him) said: "He who initiate a good *Sunnah* would have its reward and the reward of those

who follow it until the Day of the Resurrection, and he who initiates an evil *Sunnah* would carry its sin and the sin of all those who follow it until the Day of the Resurrection”.

It could also be the term used in contrast and opposition to *Bid'ah* [Innovation] so it would then mean: that which is legislated in the absolute sense of the word whether this was done by the Quran or by Prophetic Tradition. What is meant by it here is the sayings, actions, and approvals reported and narrated from the Messenger (Prayers of Allah and His Peace upon him).

The *Sunnah*'s binding force in Legislation

One thing no two Muslims would disagree about is that the *Sunnah* is the key to the Quran. The *Sunnah* is the lantern which illuminates the realities of the Quran aiding the seekers to find its subtleties, for the Quran is the spring of the law which includes the knowledge of all things as indicated by Allah's saying: **“Nothing have we omitted from the Book”** [Surah of the Livestock: 38].

﴿مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ﴾ [الأنعام: 38]

And His saying: **“and We have sent down to thee the Book explaining all things”** [Surah of the Bee: 89].

﴿وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِكُلِّ شَيْءٍ﴾ [النحل: 89]

And He also says: **“This day have I perfected your religion for you”** [Surah of the Table: 3].

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ﴾ [المائدة: 3]

The position of being a Messenger is the position of delivering the Message from Allah (Exalted is He), clarifying His commandments and prohibitions, Allah (Exalted is He) says: **“O Messenger, proclaim the (message) which hath been sent to thee from thy Lord. If thou didst not, thou wouldst not have fulfilled and proclaimed His mission”** [Surah of the Table: 67].

﴿يَا أَيُّهَا الرَّسُولُ بَلِّغْ مَا أُنْزِلَ إِلَيْكَ مِنْ رَبِّكَ وَإِنْ لَمْ تَفْعَلْ فَمَا بَلَغْتَ رِسَالَتَهُ﴾

[المائدة: 67]

“And We have sent down unto thee (also) the Message; that thou mayest explain clearly to men what is sent for them” [Surah of the Bee: 44].

﴿وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ﴾ [النحل: 44]

For this reason, it is imperative to follow the *Sunnah*.

We, as we uphold the *Sunnah* and according to it, then we do work in accordance with Allah's Book. Mutrif Ibn Abdullah was told: «Say nothing except what is in the Quran». He said: «By Allah, we would not replace the Quran by anything, we merely seek one who is more knowledgeable of the Quran than us». Also Al-Awza'i relates from Hassan Ibn 'Atiyyah that he said: «The revelation would descend to the Messenger of Allah (Prayers of Allah and His Peace upon him) and Gabriel would come to him with the *Sunnah* which explains it, so the Prophet (Prayers of Allah and His Peace upon him) had no source in all of the things he said, did, or approved except the Revelation itself, **“Nor does he say (aught) of (his own) Desire. It is no less than inspiration sent down to him”** [Surah of the Star: 3-4].

﴿وَمَا يَنْطِقُ عَنِ الْهَوَىٰ ۚ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ﴾ [النجم: 3، 4]

There are certain folks who went astray and lead others with them as they cast aside the Sunnah of the Messenger saying: Allah's Book contains the clarification of all things, so what need is there for the Sunnah?

They wrongly believed that their own intellectualization would suffice them to reach the purposes of the Quran. This is what caused the Shiites, the Jahmis, and the Khawarij to fall into disagreement with the people of the Sunnah and consensus, for the Shiites rejected that Tradition stating: "We, the Prophets, do not leave an inheritance behind, anything we leave behind must be given away as alms" through the generalization present in Allah's saying: **"Allah (thus) directs you as regards your Children's (Inheritance)"** [Surah of the Women: 11].

﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ﴾ [النساء: 11]

The Jahmis rejected the Traditions of the Divine Qualities through Allah's saying: **"there is nothing whatever like unto Him"** [Surah of the Council: 11].

﴿لَيْسَ كَمِثْلِهِ شَيْءٌ﴾ [الشورى: 11]

And the Khawarij rejected the Traditions of intercession through Allah's saying: **"O ye who believe! Spend out of (the bounties) We have provided for you, before the Day comes when no bargaining (Will avail), nor friendship nor intercession"** [Surah of the Cow: 254].

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَنْفِقُوا مِمَّا رَزَقْنَاكُمْ مِّن قَبْلِ أَن يَأْتِيَكُمْ يَوْمٌ لَا بَيْعَ

فِيهِ وَلَا خُلَّةٌ وَلَا شَفِيعَةٌ﴾ [البقرة: 254]

And they also rejected the Traditions indicating that the ones who commit major sins would exit from Hellfire through their own understanding of the Verses of the Divine threats in the Quran.

Prophethood, through the knowledge of the Unseen granted to it, discussed this. The Prophet (Prayers of Allah and His Peace upon him) scolded those who would reject a correct Sunnah. The Messenger of Allah (Prayers of Allah and His Peace upon him) is related to have said: "The man from you is about to be seated on his couch having heard a Tradition from me and would say: There is Allah's Book between us and you, whatever we find to be permissible in it then we will deem it as permissible, and whatever we find to be prohibited in it, then we would deem it as prohibited. By Allah, anything which the Messenger of Allah deems to be prohibited is like what Allah has deemed prohibited".

So what gave those people the excuse to merely stop at the apparent aspect of the Book without seeking the light of Prophethood and the guidance of the Message while the Book itself commands them to follow it and threatens those who disobey it? Allah (Exalted is He) says: **"So take what the Messenger assigns to you, and deny yourselves that which he withholds from you"** [Surah of the Exile: 7].

﴿وَمَا ءَانَكُمْ الرَّسُولُ فَحِذُّوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا﴾ [الحشر: 7]

And He says: **"then let those beware who withstand the Messenger's order, lest some trial befall them, or a**

grievous penalty be inflicted on them" [Surah of the Light: 63].

﴿فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ أَنْ تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ﴾

[النور: 63]

These Verses prove the binding force of the Sunnah in legislation, and the necessity of referring to it and considering it.

The Sunnah's Level in Legislation

We mean by this its relationship to the Book from the aspect of using it as proof.

Many Verses have indicated the binding force of the Sunnah and taking it into consideration as you have seen, and now you must know that its level in this consideration comes after the level of the Book so it comes second after it, this is proven by a number of things such as:

1-The affirmation of the Book in its generality and its detail is decisive, the affirmation of the Sunnah is decisive in its generality but based on the conjecture likeliest to be true in its details.

2-The Tradition of Mu'ath in which the Messenger (Prayers of Allah and His Peace upon him) asked him: "What would you judge by?" He said: Allah's Book. He said: "And if you find no rule in it?" he said: Then through the Sunnah of the Messenger of Allah. Omar Ibn Al-Khattab is related to have written to Shurayh the Judge: "Look at what had been clarified from you from Allah's Book and do not ask anyone about any further judgment after it, what is not clarified in

Allah's Book then follow the Sunnah of the Messenger of Allah (Prayers of Allah and His Peace upon him) in it". Such statements often occur in the words of the predecessors and the scholars, the differentiation the Hanafi scholars made between the obligatory act and the act which must necessarily be done originates in the consideration of the precedence of the Book over the Sunnah.

Diligence at that Age

Diligence (*Ijtihad*) linguistically means to make one's utmost effort in a certain action. It is only needed for that which implies an effort, so it is said: He was diligent in carrying a stone, but it would not be said: he was diligent in carrying a mustard seed.

The people use it in the meaning of making the utmost effort to derive a judgment of the law from what the lawmaker considered as proof, and this means Allah's Book and the Sunnah of His Prophet, this includes the following aspects:

(First): deriving the judgment from the exoteric aspects of the Texts if the place of that judgment was handled by these Text. This is after looking into their generalities and particularities in the absolute sense and in the limited sense, what was annulled and the Text which caused this annulment, and all other such things upon which reaching a result depends.

(Second): deriving the judgment from what is understood by the Text if the judgment had a cause which is clearly indicated or which is derived and the place of the incident

contains both the cause and the Text, this is the method of deduction through analogy (*Qiyas*).

(Third): To measure the events through the general rules derived from the dispersed clues in the Quran and the Sunnah, this is what falls under the categories of juristic preference (*Istihsan*), absolute general and public interests (*Masalih Mursalah*), and the aversion of pretexts (*Sadd Ath-Thara'i*) and so on.

With this, and although the Book and the Sunnah are the principle foundations of Islamic legislation, it had been proven beyond any doubt that the Prophet (Prayers of Allah and His Peace upon him) was permitted to perform this diligence and he did use it. Furthermore he permitted his companions to use it and approved many of the judgments they derived through diligence. So you see that he said in Traditions correctly narrated about him: "Had I not feared that I would make things difficult for my nations, I would have commanded them to brush their teeth through the *Suwak* in each prayer". He also said to one of his wives: "Had your people not been newly out of infidelity, I would have built the Ka'aba on the foundations of Abraham".

All of this indicates to us that he selected certain things out taking into consideration what he saw as the best interest of the nation, and had he not been permitted to perform this diligence he would not have done it, he did it in plenty of occasions.

One such example is that he had forbidden to himself some of the things which were permitted to him due to a general interest which he saw. Allah (Exalted is He)

prevented him from this as He says: "O Prophet! Why holdest thou to be forbidden that which Allah has made lawful to thee? Thou seekest to please thy consorts. But Allah is Oft-Forgiving, Most Merciful. Allah has already ordained for you, (O men), the dissolution of your oaths (in some cases)" [Surah of the Prohibitions: 1-2].

﴿يَا أَيُّهَا النَّبِيُّ لِمَ تُحَرِّمُ مَا أَحَلَّ اللَّهُ لَكَ تَبْتَغِي مَرْضَاتَ أَزْوَاجِكَ وَاللَّهُ غَفُورٌ رَحِيمٌ ۝١﴾ قَدْ فَرَضَ

اللَّهُ لَكُمْ نِكَاحَ إِيمَانِكُمْ ﴿التَّحْرِيمُ: 1، 2﴾

The story behind this is mentioned in detail in the books of interpretation.

One of the events of diligence to which the Quran attests is when the Prophet (Prayers of Allah and His Peace upon him) asked his companions for advice on what to do with the captives of Badr, then he took the opinion of Abu Bakr and preferred taking ransom for them rather than Omar's opinion to kill them. Allah (Exalted is He) clarified to him that the interest was the opposite of this, this was in Allah's saying: "It is not fitting for an apostle that he should have prisoners of war until he hath thoroughly subdued the land" [Surah of the Spoils of War: 67].

﴿مَا كَانَتْ لِنَبِيِّ أَنْ يَكُونَ لَهُ أَسْرَى حَتَّى يُثْخِرَ فِي الْأَرْضِ﴾ [الأنفال: 67]

He also performed a form of diligence on the day of Badr before the battle when he made camp with his companions in a place which he selected in Badr. Al-Habbab Ibn Al-Munthir said to him: Is this a place in which Allah placed you so that we would not move from it, or is it the position of war and its plans? He said: "It is the position of war and its plans", Al-Habbab then pointed to him that he should move to another

place, the Messenger (Prayers of Allah and His Peace upon him) agreed with him and it was one of the reasons they defeated the infidels of Quraish.

The Messenger (Prayers of Allah and His Peace upon him) performed another effort of diligence when he excused the hypocrites to stay behind in the Tabuk Campaign as referred to in Allah's saying: **"Allah give thee grace! why didst thou grant them until those who told the truth were seen by thee in a clear light, and thou hadst proved the liars?"** [Surah of the Repentance: 43].

﴿عَفَا اللَّهُ عَنْكَ لِمَ أَذْنَتْ لَهُمْ حَتَّى يَتَبَيَّنَ لَكَ الَّذِينَ صَدَقُوا وَتَعْلَمَ

الْكَاذِبِينَ﴾ [التوبة: 43]

He also performed another effort of diligence in the Khaybar Campaign when he saw that his Companions have lit fires under the cooking pots, the Messenger (Prayers of Allah and His Peace upon him) said: "What did you light these cooking pots for?" they said: To cook the meat of domestic donkeys. He said: "Pour what is in these pots away and break them", one of the people stood up and said: Can we pour away what is in them and wash them? The Prophet (Prayers of Allah and His Peace upon him) said: "Or you can do that". So he ruled with the more severe judgment at the beginning to root out the very origin of the act and to prevent them from eating what is forbidden. When they submitted to the judgment and yet made him sense that breaking the pots can prevent a more general interest and make things difficult for them, he allowed them to wash the pots so they can use them in other things.

Other examples of efforts of diligence which indicate that the Messenger (Prayers of Allah and His Peace upon him) used the method of deduction through analogy are:

- 1- A woman came to him and said: O Messenger of Allah, my mother died and she vowed to hold a fast, should I fast in her stead? He said: "If your mother had a debt to pay and you paid it in her stead, would it have sufficed?" She said: Yes. He said: "Allah's debt, then, is more worthy of being fulfilled".
- 2- A man denied that a baby his wife gave birth to because it turned out to be black. The Messenger (Prayers of Allah and His Peace upon him) said: "Do you have red camels in which there is one whose color is closer to blackness?". The man said: Yes. The Messenger (Prayers of Allah and His Peace upon him) said: "How did this take place?". The man said: Perhaps it is overcome by a matter of inheritance. The Messenger (Prayers of Allah and His Peace upon him) said: "And this baby was perhaps overcome by a matter of inheritance". There are several other such examples.

The Prophet's Permission for His Companions to Use Diligence

As for the Prophet's permission for the Companions to use diligence, this is attested to by the Tradition of Mu'ath Ibn Jabal, it is related when the Prophet (Prayers of Allah and His Peace upon him) sent Mu'ath to Yemen to teach them and look after some of their affairs he said to him: "What will do if a matter you should give a ruling about is presented to

you?", he said: I would rule according to the rules and judgments present in Allah's Book. He said: "And if it was not present in Allah's Book?", he said: I would rule according to the Sunnah of the Messenger of Allah. He said: "And if it was not present in the Sunnah of the Messenger of Allah?", he said: Then I would be diligent in ruling according to my point of view without fail. Mu'ath said: Then the Messenger of Allah (Prayers of Allah and His Peace upon him) patted my chest with his hand and said: "Praise is for Allah who has granted the messenger of Allah's Messenger to what pleases the Messenger of Allah".

So this shows his comfort (Prayers of Allah and His Peace upon him) for Mu'ath use of deduction through analogy and relying on diligence.

Many events of diligence took place by the Companions in his presence and absence, the Messenger (Prayers of Allah and His Peace upon him) would approve of it when they were correct and deny it when they are wrong, here are events which attest to this:

One of these is that when the Muslims defeated Bani Quraythah and surrounded them in their fortress, they called Sa'd Ibn Mu'ath and accepted his ruling concerning them, he ruled that their men are to be executed, their women and children are to be taken as slaves. The Messenger (Prayers of Allah and His Peace upon him) said: "You have given Allah's ruling about them". Sa'd's ruling about them was deduced based on the ruling about those who wage treacherous war in Allah's saying: **"The punishment of those who wage war against Allah and His Messenger, and strive with might**

and main for mischief through the land is: execution, or crucifixion" [Surah of the Table: 33].

﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا

أَوْ يُصَلَّبُوا﴾ [المائدة: 33]

Since Bani Quraythah have allied themselves with Quraish in the Clans Campaign, breaking the solemn pact they made with the Muslims and almost causing the destruction of the entirety of the Muslims. It was also said that Sa'd deduced the rule based on the captives of Badr which the Prophet (Prayers of Allah and His Peace upon him) was reproached by Allah for not having killed them, Allah's saying: **"thereafter (is the time for) either generosity or ransom"** [Surah of Muhammad: 4].

﴿فَإِمَّا مَنًّا بَعْدُ وَإِمَّا فِدَاءً﴾ [محمد: 4]

Another such an instant is when two Companions travelled and prayer time came and they had no water, they both prayed and then while it was still the time for that prayer they found water, one of them repeated the prayer and the other did not. The Messenger of Allah (Prayers of Allah and His Peace upon him) said that both are correct, he said to the one who did not repeat his prayer: "You have followed the correct Sunnah and your prayer sufficed you" and he said to the one who repeated the prayer: "You have the reward for prayer twice".

Another such example is when the Messenger of Allah (Prayers of Allah and His Peace upon him) returned from the Clans Campaign and as he wished to take off the clothes of war. Allah (Exalted is He) commanded him to lead the

Muslims to Bani Quraythah. The Messenger (Prayers of Allah and His Peace upon him) said to his Companions: "Let no one pray the afternoon prayers except at the land of Bani Quraythah", they all marched there quickly although some of them did pray the afternoon prayer on the way interpreting what the Messenger (Prayers of Allah and His Peace upon him) said as speed of marching, and some of them took the statement literally and did not pray except at the land of Bani Quraythah. When both groups of people asked for the ruling of the Prophet (Prayers of Allah and His Peace upon him), he did not refuse what either of them did.

Another such example is when a group of the Companions were travelling, Omar and Mu'ath (Allah be pleased with them) were among them, they both woke up in need of washing as both had sexual intercourse night and they had no water. Both of them made an effort of diligence in this affair. As for Mu'ath, he made an analogy between purity through water and purity through earth, he wallowed in sand and then he prayed, Omar thought that the analogy is inapplicable and delayed the prayer, when they returned to the Messenger of Allah (Prayers of Allah and His Peace upon him) he clarified what is correct for them, explaining that Mu'ath's analogy is incorrect as it contradicts a Text which is Allah's saying: **"and rub therewith your faces and hands"** [Surah of the Table: 6].

﴿فَامْسَحُوا بِوُجُوهِكُمْ وَأَيْدِيكُمْ﴾ [المائدة: 6]

The Prophet (Prayers of Allah and His Peace upon him) said to him: "It suffices for you to do this", in reference to rubbing with sand, he also explained to Omar that just as

rubbing through sand removes the lower impurity [which is due to going to the bathroom and the like and which is removed through ordinary ablutions], it removes the major impurity [which takes place through full sexual intercourse and which is only removed through fully bathing the body], and that the "touching" referred to in the Quranic Verse and from which rubbing through sands purifies is not the introduction to sexual intercourse as Omar understood, it is a reference to sexual intercourse itself.

Another such example is when Ali (Allah honor his face) judged through his own diligence about the people of the trap when the Prophet (Prayers of Allah and His Peace upon him) sent him as a judge to Yemen. There were certain people who dug a trap for a lion, the lion fell into it, people thronged around it to the extent that a man fell into it, he held to another man and the second held a third, and the third held another man and all four of them fell into the trap and the lion killed all of them.

Ali (Allah be pleased with him) judged that the first man's family is to have one fourth of the expiation being paid to them as he died as a result of the overcrowding of the people around the trap and through the fall of the three men he pulled with him over him so he wasted the expiation which meets the act and this is three quarter of the expiation value. He judged that the second man is to have one third of an expiation being paid to his family as he died through the first one pulling him and through the fall of the two men which he pulled falling over him, and this wasted two thirds of the value of the expiation money. He ruled also that the third man

is to have one half of an expiation being paid to his family as he died through the second man pulling him and the fourth man falling over him, and this wasted half of the value of the expiation due for him. He also ruled that the fourth man is to have a full expiation paid to him as he died for the sole reason of the third man pulling him down. He also ruled that all this expiation is due from all the tribes of the men who crowded over the tribe. When these tribes rejected this rule they came to the Prophet (Prayers of Allah and His Peace upon him) who said to them: "The judgment about this matter is how Ali judged". There are many other examples, citing all of them would take too long.

Despite all of this, we can say that diligence was not a separate and independent source of legislation at that age, for you have already seen that the diligence of the Prophet (Prayers of Allah and His Peace upon him) returns in its source to the Divine Revelation in the end, if it was correct it would be approved and if it was otherwise then the aspect of what is wrong in it is clarified.

As for the acts of diligence which took place by the Companions, they mostly took place at the times when it was difficult for them to refer to the Prophet (Prayers of Allah and His Peace upon him) to ask for his ruling about the matter either due to being a long distance away from him or out of fear of the loss of the opportunity, but they had to inevitably take up their diligence to him (Prayers of Allah and His Peace upon him) so that he would show them the reality of the affair either approving a correct judgment or correcting a wrong one, so their reference, based on this, is the Sunnah.

The Wisdom behind the Prophet's Diligence and His Permission to the Companions to Perform It

The wisdom behind the Prophet (Prayers of Allah and His Peace upon him) performing acts of diligence is that as this law is the seal of all Divine laws. Diligence will be inevitable and necessary since it is the religion of the people until the Day of the Resurrection, the rules of the principles in it came in a generalized manner which did not expose all the details and particularities. Since people have new and endless occurrences which take place with them and each age has new occurrences unprecedented and unknown to the people in the previous ages. Because of all of this the Prophet (Prayers of Allah and His Peace upon him) wanted to teach the nation the way to derive judgments. To train them to reach these rules based on their general proofs so that the people of jurisprudence, understanding, and knowledge of the law can - through their own powers of acumen - apply the generalities of the Quran and the Sunnah to the particularities of the events of their times. This is perhaps one of the meanings of Allah's saying: **"Nothing have we omitted from the Book"** [Surah of the Livestock: 38].

﴿مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ﴾ [الأنعام: 38]

And His saying: **"and We have sent down to thee the Book explaining all things"** [Surah of the Bee: 89].

﴿وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ بَيِّنَاتٍ لِكُلِّ شَيْءٍ﴾ [النحل: 89]

So through his own diligence and through permitting his Companions to perform acts of diligence the Prophet (Prayers of Allah and His Peace upon him) gave the nation after him an example of how it should act after him. This drew the path which they should use after him so that Islamic Jurisprudence in its details would have the ability to continue to be applicable over all times and to continue to be the principle upon which nations would rise. For this reason the Messenger (Prayers of Allah and His Peace upon him) in many of his sayings and cases would clarify to the people not only the judgments, but the justification associated with the secret behind them just as he (Prayers of Allah and His Peace upon him) said about the cat: "It is one of Allah's creatures who pass around you", and said about the drinks which are left to mix with water: "These are good dates and this is pure water", and such as his saying about marrying a girl at the same time of being married to her aunt: "If you do this then you would sever your family ties".

From the totality of what was mentioned it should be clear for you that at the Prophetic age Islamic jurisprudence had no source except the Quran and the Sunnah, all what was affirmed by way of diligence was either directly derived from the Quran at times or had the revelation as its source and origin at other times.

The Second Stage Legislation at the time if the Righteous Caliphs

How was Legislation at that Age?

You have seen that the source of legislation at the age of Prophethood was Allah's Book and the Sunnah of His Messenger, and that the Prophet (Prayers of Allah and His Peace upon him) was the supreme source and reference for legislation and rulings. When the Prophet (Prayers of Allah and His Peace upon him) heeded the call of his Lord and revelation ceased, he left two invaluable treasures: "I have left two things in you, if you follow them you will never go astray: Allah's Book and the Sunnah of His Prophet".

After this the greatest among his Companions took upon themselves the burden of this affair. They faced a monumental task indeed, for the Islamic conquests have expanded the extent of the power of the Arabs beyond the Arabian Peninsula, they have extended their sovereignty over Egypt, the Levant, Iraq, and Persia. The Muslims found themselves in the face of events and occurrences which they never faced before in the details of their lives.

This led them to search into the judgments of these newly occurring events with Allah's Book and the Sunnah of His Messenger, and as they obviously did not handle all the

events and occurrences which took place or would take place for the Muslims, these Imams had to make efforts of diligence to apply the universal and general laws legislated and explained in the Quran and the Sunnah to these partial occurrences. The Messenger of Allah (Prayers of Allah and His Peace upon him) paved the way of diligence for them, he trained them to perform it, was pleased with it for them, and rewarded them for it whether they were right or wrong. Based on this they made their utmost effort, they dedicated these efforts to the derivation of the judgments of these newly occurring issues.

The diligence of the Companions (Allah's pleasure upon all of them) was in its wider sense, they have looked into what the texts indicate, they have made analogies, they have made preferences, and so on. But, and as Ibn Al-Qayyim maintain, they have given the term "point of view" (*Ra'y*) to what the heart sees to be true after a process of thought, meditation, and seeking the knowledge of the aspect of truth about two affairs about which the signs, indications, and evidence conflict with each other. Based on this, "point of view" for them was not confined to deduction based on analogy as is the case today, it includes deduction based on analogy (*Qiyas*), juristic preference (*Istihsan*), absolute general and public interests (*Masalih Mursalah*), the original permissibility of things (*Al-Bara'ah Al-Asliyyah*), and the aversion of the pretexts (*Sadd Ath-Thara'i*).

Derivation of judgments at that age was confined to the occurrences which take place in them. They did not imagine issues which did not take place or assume that an imagined

scenario would take place and seek the ruling about it as the later jurists did. They confined themselves to issuing rules and judgments about the affairs which take place with them, they maintained the following:

- 1) That occupying one's self with anything other than this is a waste of time which prevents one from actions of goodness, and that it kills valuable time.
- 2) They used to refrain from being the sources of rules and judgments as much as possible out of fear of error and mistakes. He who has such fears would avoid issuing rules about imagined issues and occurrences. It is related that when Zayd Ibn Thabit was asked about the ruling about a certain issue he would ask first: Did it take place? If people would say that it did then he would state the ruling and the judgment about it, otherwise he would say: Leave it until it actually happens.
- 3) In addition to all this the distinguished among the Companions and the ones whose opinions had the most respect at that age would either be the Caliphs themselves or aids for Caliphs. The administration of the affairs of the Islamic state and the Muslims in both religious and worldly matters occupied them from assumption and imagination.

Al-Baghawi and Maymoun Ibn Mahran narrated traditions which give us a clear image for their manner of derivation of rules and judgments. It is related that when antagonists would come to Abu Bakr to seek his ruling he would look into Allah's Book, if he finds anything in it which would resolve their dispute then he would rule accordingly, if there was

nothing about the matter in the Book then he would see if he knew about any Sunnah left by the Messenger of Allah (Prayers of Allah and His Peace upon him). If he found nothing about the matter then he would go out and ask a group of Muslims stating: An affair of so and so came to me, do you know of a ruling which the Messenger of Allah (Prayers of Allah and His Peace upon him) made about this matter? Then sometimes a whole group of Muslims would mention to him a ruling made by the Messenger of Allah (Prayers of Allah and His Peace upon him). If he makes this effort to the utmost limit and still fails to find a Sunnah of the Messenger of Allah (Prayers of Allah and His Peace upon him) then he would gather the heads of the people and the best among them and seek their council. If their opinions agree on something then he would rule according to it.

Omar (Allah be pleased with him) would do the same, the only difference is that if he makes the utmost effort to find a ruling in the Book and the Sunnah and fails to find anything he would see if Abu Bakr had a previous ruling about the matter. If he finds that Abu Bakr ruled about this matter previously he would rule according to this judgment, otherwise he would call the heads of the people and if they agree on a matter he would rule according to this.

Based on this tradition it is clear to us that in issuing legislations they depended on four sources at that age, these are: the Book, the Sunnah, consensus, then opinion and point of view.

Let us discuss their attitude towards each of these four sources:

1- The Book

The Collection of the Quran and Copying It into *Mushafs*

The entirety of the Quran was not collected into a book, or a *Mushaf* within the lifetime of the Messenger of Allah (Prayers of Allah and His Peace upon him).

The wisdom behind this is that as long as the Messenger (Prayers of Allah and His Peace upon him) was alive then there is still hope for Revelation to descend upon him, it became clear that what was revealed to him is the entirety of the Holy Quran only when he died.

But it must also be known that the Prophet (Prayers of Allah and His Peace upon him) did not part with this world before all the Verses of the Holy Quran were written on parchments and bones and the like.

When Abu Bakr (Allah be pleased with him) was given the leadership after him and after the Battle of Al-Yamamah took place, and this was a battle in which many of those who have learnt the Holy Quran by heart were killed, Omar gave Abu Bakr (Allah be pleased with both of them) the recommendation that the Holy Quran must be collected into papers out of fear of its disappearance with the death of those who have learnt its entirety by heart.

Abu Bakr was hesitant at the beginning as it is an act which was not preceded at the time of the Messenger (Prayers of Allah and His Peace upon him). Then he felt comfortable with Omar's opinion due to the public interest this act entails, so he brought Zayd Ibn Thabit who was one

of the Companions who were adamant in remaining in the assembly of the Messenger (Prayers of Allah and His Peace upon him) and one of the ones who learned the Quran the most. He convinced him of the necessity of collecting it and he so he collected it.

Al-Bukhari relates in his "Sahih" that Zayd Ibn Thabit said: Abu Bakr sent for me after the warriors of Al-Yamamah were killed, I found Omar Ibn Al-Khattab with him, Abu Bakr said: Omar came to me and said: Many of the readers of the Quran were killed, and I fear that if the battles continue then more them would be killed and then plenty of the Quran would be lost, and I see that you should command the collection of the Quran. I said to Omar: How could we do something which the Messenger of Allah (Prayers of Allah and His Peace upon him) did not do? Omar said: This, by Allah, is good. He kept on discussing the matter with me until Allah opened my heart to it and I maintained the same view Omar did. Zayd said: Abu Bakr said: You are a heedful young man and there is no blemish on you, you used to write the Revelation for the Messenger of Allah (Prayers of Allah and His Peace upon him), so follow the Quran and collect it! By Allah, had they charged me to move a mountain from its place it would not have been a heavier charge. I said: How would you do something which the Messenger of Allah (Prayers of Allah and His Peace upon him) did not do? He said: It is good by Allah. So Abu Bakr kept on convincing me until Allah opened my heart to what He opened the hearts of Abu Bakr and Omar, so I followed the Quran collecting it from palm tree leafs and soft stones and the hearts of men. I

found the end of the Surah of the Repentance with Khuzaymah Al-Ansari and I did not find it with anyone else, **"Now hath come unto you an Messenger from amongst yourselves"** [Surah of the Repentance: 128].

﴿لَقَدْ جَاءَكُمْ رَسُولٌ مِّنْ أَنفُسِكُمْ﴾ [التوبة: 128]

Until the end of the Surah, then the pages remained with Abu Bakr until Allah (Exalted is He) took his soul, and then with Omar for the period of his life, then it remained with Hafsa the daughter of Omar."

So Abu Bakr did not do anything in reality except collect what was dispersed into particular papers. So his work, as Al-Muhasibi expressed it, was like one who found dispersed papers in a house and tied them all together with a thread.

During this reliance process the reliance was not only to what was learnt by heart, but also on what is written to have further certainty of the veracity of the Verses. It was related that they did not find in the papers present in the Prophet's House Allah's saying: **"Now hath come unto you an Messenger from amongst yourselves"** [Surah of the Repentance: 128].

﴿لَقَدْ جَاءَكُمْ رَسُولٌ مِّنْ أَنفُسِكُمْ﴾ [التوبة: 128]

Until the end of the Surah. Nor did they find His saying: **"Among the Believers are men who have been true to their covenant with Allah."** [Surah of the Clans: 23].

﴿مِنَ الْمُؤْمِنِينَ رِجَالٌ صَدَقُوا مَا عَاهَدُوا اللَّهَ عَلَيْهِ﴾ [الأحزاب: 23]

So Zayd (Allah be pleased with him) was not content with learning it with a great number of Companions learning so that it reaches the level of *Tawatur*, he kept on seeking these

Verses until he found them written, the first two were written with Khuzaymah Al-Ansari and the third was with Abu Khuzaymah.

And thus was the collection of the Quran completed and all the Companions, whether they were from the immigrants or the supporters accepted it in this matter, and thus the promise of Allah (Exalted is He) to preserve it was accomplished **"We have, without doubt, sent down the Message; and We will assuredly guard it (from corruption)"** [Surah of Al-Hijr: 9].

﴿ إِنَّا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِنَّا لَهُ لَحَافِظُونَ ﴾ [الحجر: 9]

Then at the time of Uthman Ibn Affan certain affairs occurred necessitating the copying of the Quran into several Mushafs and distributing it to the lands. Al-Bukhari narrates from Huthaifah Ibn Al-Yaman returned to Uthman Ibn Affan, and he was with the people of Syria in a campaign to conquer Armenia and with the people of Iraq in a campaign to conquer Azerbaijan, he was terrified by the variations in recital these people had, he said to Uthman: Save the nation before they disagree the way the Jews and the Christians disagreed.

So Uthman sent to Hafsah asking her to send him the pages of the Holy Quran copied by Abu Bakr so as to copy them to several Mushafs and then to return them to her. Uthman ordered Zayd Ibn Thabit and Abdullah Ibn Az-Zubayr and Sa'id Ibn Al-'As and Abd Ar-Rahman Ibn Al-Harith Ibn Hisham so they copied them in Mushafs. Uthman said to the three among them who were from Quraish: If you disagree with Zayd about anything from the Holy Quran then write it with the tongue of Quraish, for it was revealed in their

tongue. They did this, when they copied the pages into the Mushafs and Uthman returned the pages to Hafsah and he then sent to each country a copy of the Quran containing what they copied, and he ordered that each other inscription of writing of the Quran to be burnt.

The Variations between the Companions in their Understanding of the Quran

The Quran was the first refuge of those who judged and legislated. So if an affair took place with them they would place it on the Quran as it is the spring of the law. The Companions (Allah be pleased with them) were the ones most capable to understand the Quran as it was revealed with their tongue and also because they were aware of the causes of its revelation. Despite all this they disagreed in understanding it according to the variation of the tools of understanding which they had, for their knowledge of their own language varied, some of them knew it very well being well-versed in its more rare terms and words, some were not like this. Some of them would remain in the companionship of the Messenger (Prayers of Allah and His Peace upon him) and would know the causes of the revelation and its effect in understanding the Verses.

Add to this the fact that the Companions were the same in their level of knowledge, they were greatly different in this sense. Masrouq [who is one of the followers of the Companions] said: "I have assembled with the Companions of Muhammad (Prayers of Allah and His Peace upon him), I

saw that they were like water springs, one spring would quench the thirst of one or two men, another spring would quench the thirst of ten men, another spring would quench the thirst of one hundred men, and one spring would quench the entirety of the people of the earth". So it is not a strange if you see that their manners of deriving from the Book varied. One example is this is Allah's saying: **"Divorced women shall wait concerning themselves for three monthly periods"** [Surah of the Cow: 228].

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾ [البقرة: 228]

The difference here in understanding this Verse is whether the divorced woman has to wait three periods of being purified from menstruation or three periods of menstruation itself, this is a branch in the variation in the understanding of the word for the monthly period itself in Arabic.

Another example of this is what Abu Bakr said: "The grandfather is a father in inheritance", so in terms of inheritance of property he should be treated in the same manner as a father in all states, he deduced this from Allah's saying: **"And I follow the ways of my fathers"** [Surah of Joseph: 38].

﴿وَاتَّبَعْتُ مِلَّةَ آبَائِي﴾ [يوسف: 38]

Others said that calling him a father is figurative, and assuming that it is not so then linguistic naming does not necessitate deserving an inheritance.

Another example of this is that a man came to Ibn Mas'ud and said: I left a man in the mosque who would interpret the Quran through his own opinion, for he interprets Allah's

saying: **"Then watch thou for the Day that the sky will bring forth a kind of smoke (or mist) plainly visible"** [Surah of the Smoke: 10].

﴿فَارْتَقِبْ يَوْمَ تَأْتِي السَّمَاءُ بِدُخَانٍ مُبِينٍ﴾ [الدخان: 10]

That people in the Day of Judgment would have smoke which would take their breaths away as if it is a common cold, Ibn Mas'ud said: He who knows something let him speak of it, and he who does not know let him say: Allah knows best. This was because Quraish became too difficult for the Prophet (Prayers of Allah and His Peace upon him), he supplicated against them to have years like those of Joseph, they had a severe draught to the extent that they ate animal bones. The man would look at the sky and see something like smoke due to the toil he is in.

Another example of this is when Allah (Exalted is He) revealed His saying: **"This day have I perfected your religion for you"** [Surah of the Table: 3].

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ﴾ [المائدة: 3]

The Companions were pleased as they thought that it is just information and good tidings about the perfection of religion, but Omar wept and said: There is nothing after perfection except imperfection, sensing that it is the tidings of the death of the Prophet (Prayers of Allah and His Peace upon him). He was correct about this, the Prophet (Prayers of Allah and His Peace upon him) only lived eighty one days after the revelation of this Verse as the Traditions relate.

Another example is that Omar recited on the pulpit Allah's saying: **"Or that He may not call them to account by a process of slow wastage"** [Surah of the Bee: 47].

﴿أَوْ يَأْخُذْهُمْ عَلَى تَخَوُّفٍ﴾ [النحل: 47]

He asked the people about the meaning of "slow wastage" [*Takhawwuf*] and said: What do you say about it and the meaning of slow wastage in it. An old man from the tribe of Huthail stood up and said: This is from our dialect, it means becoming fewer and fewer. Omar said: Do the Arabs know this in their poetry? The old man said: Yes, and he recited a verse of their poetry attesting to this meaning. Omar (Allah be pleased with him) then said: Preserve your record and you will not be lost. They said: What is our record? He said: The pre-Islamic poetry, for it contains the interpretation of your Book and the meaning of your speech.

The meaning is that He will destroy them after afflicting them with trials so that they would become fewer and fewer in the number of their souls and the amount of their property until they are overcome with fear, and so that they would expect fear at all times. So you see that Omar, despite the lucidity of his mind, the power of his perception and the vastness of his knowledge, did not know the meaning of this word until he asked the people who know about it.

These examples and the ones similar clarify for us the variation present in the Companions in the understanding of the Verses of the Holy Quran and the identification of some of the judgments accordingly - as we have already mentioned - also to the power of their mind and their encompassment of the words of the language and the causes of the revelation, also

their knowledge of the traditions of the predecessors and the Jews, and their knowledge of the Arab poetry and customs making these meanings closer to the intellect, and allowing the people to reach what is sought.

2- The Sunnah

When the Companions (Allah be pleased with them) would not be able to reach a judgment of an occurrence in the Book even after making the utmost effort they would seek refuge in the Sunnah for a ruling on this occurrence. The Sunnah was not written at that time, it was preserved in the hearts of men.

Not all the Companions learnt all the Traditions about the Prophet (Prayers of Allah and His Peace upon him), there were those who learnt the few Traditions and there are those who have learnt many. Some of them would attend an assembly in which others were not present and would hear something which the others did not hear. Relating the Traditions at that time was not as common as it became afterwards, this was because Abu Bakr and Omar discouraged the plentitude of narrating Traditions out of fear for people to falsely attribute Traditions to the Messenger of Allah (Prayers of Allah and His Peace upon him) and also out of fear that this would prevent them from reciting the Holy Quran and understanding it, Omar even told taught them to avoid this.

Al-Hafiz Ath-Thahabi said in "Tathkirat Al-Huffath": Abu Bakr As-Siddiq (Allah be pleased with him) gathered the people after the death of their Prophet and said: You are going to narrate Traditions from the Messenger of Allah

(Prayers of Allah and His Peace upon him) and you will disagree about this, the people who are after you will further disagree, so do not tell anything about the Messenger of Allah, he who asks you tell him: There is Allah's Book between you and us, what is permissible in it is permissible and what is forbidden in it is forbidden.

Abu Huraira was asked: Did you tell Traditions the way you do now at the time of Omar?

He said: If I told Traditions the way I tell you now at the time of Omar he would have beaten me with his whip.

Qarathah Ibn Ka'b is related to have said: We went out on our way to Iraq and Omar walked with us all the way to Hira', he performed the ablutions washing each limb twice then said: Do you know why I walked with you? They said: Yes, we are the Companions of the Messenger of Allah (Prayers of Allah and His Peace upon him) and you walked with us. He said: You will come to the people of a town whose voices in the recital of the Quran are like bees in their hive, so do not prevent them through Traditions and occupy them. Recite the Quran often and narrate the Traditions of the Messenger of Allah (Prayers of Allah and His Peace upon him) as little as possible, go and I am your partner.

When Qarathah arrived there they told him: Tell us some traditions. He said: Omar Ibn Al-Khattab forbade us from doing so.

The Ways of the Companions in Working According to the Sunnah

There is no disagreement among those whose opinion is worth considering that when a Sunnah is affirmed about the Messenger of Allah (Prayers of Allah and His Peace upon him) it must be applied and put into effect, but as the ways of affirming the Sunnah varied, and the chains of narrating it differed. There are Traditions narrated by a throng of people, and there are Traditions narrated by very few people, there are narrators who are trustworthy and there are those who have blemishes on their character. This called for the division of the Tradition into the correct Tradition (*Sahih*), the good Tradition (*Hassan*), and a weak Tradition (*Da'if*). It was further divided into Traditions which were narrated by many ways of transmission (*Mutawatir*), and those which are narrated by a single way of transmission (*Ahad*).

The *Mutawatir* as all agree must be accepted, but the Traditions related by single people were subject to disagreement by the Companions due to the suspicions that may rise from them, so Abu Bakr and Omar would only accept a Tradition if at least two people testified that they have heard it from the Messenger of Allah (Prayers of Allah and His Peace upon him).

Al-Hafiz Ath-Thahabi said in "Tathkirat Al-Huffath": Ibn Shihab relates from Qubayssah Ibn Thu'ayb that a grandmother came to Abu Bakr asking for her share of an inheritance. He said to her: I do not find anything for you in Allah's Book and as far as I know the Messenger of Allah (Prayers of Allah and His Peace upon him) did not mention anything for you as a share of an inheritance. He then asked the people, Al-Mughirah stood and said: I heard the

Messenger of Allah (Prayers of Allah and His Peace upon him) give her the sixth of the inheritance. He said: Is there anyone else who can attest to this? The Muhammad Ibn Maslamah attested to the same thing and Abu Bakr ruled for her by the sixth of the inheritance.

Al-Bukhari and Muslim both narrate from Abu Sa'id Al-Khidri that he said: I was sitting in an assembly of Al-Ansar, Abu Musa then came to us and he was frightened. They said: What frightens you?

He said: Omar commanded me to go to him and I went there and sought the permission to enter three times, and no one permitted me to go in and so I returned. He said to me later: What prevented you from coming to us? I said: I came and I greeted at your doors three times and no one replied so I returned, the Messenger of Allah (Prayers of Allah and His Peace upon him) said: If one of you seeks permission three times and is not given the permission to enter, let him go away. Omar said: You must bring me the proof of this. The people of the assembly then said: Only the smallest of the group would stand for this issue.

Abu Sa'id stood up and went with him and attested to this affair. Omar said to Abu Musa: I did not doubt your honesty, but the Tradition is being related about the Messenger of Allah (Prayers of Allah and His Peace upon him).

It is also related that Omar said to Abu Musa after the latter related a Tradition to him: You must bring me a proof of what you say. Abu Musa went out and saw a group of Al-Ansar, he mentioned to them what Omar said and they said: We have heard this from the Messenger of Allah (Prayers of

Allah and His Peace upon him). Omar said: I did not doubt your honesty, but I liked to be sure.

Ali (Allah honor his face) would ask the one who narrates a Tradition to him to make a solemn oath to the correctness of the Tradition, he would do this with all the people except Abu Bakr (Allah be pleased with him), he would accept what he narrates without asking him to make the solemn oath.

Some of the Companions may on occasions reject a Tradition altogether either because he does not trust the person who narrates it, or because they know it was annulled by another text, or because it contradicts another text which is stronger from their point of view. Here are examples of this:

Abu Huraira narrated the Tradition which states: "He who carries a funeral let him perform the ablution". Ibn Abbas did not put it into effect, he said: We do not necessarily have to perform the ablution for carrying dry sticks.

Also Aisha did not put into effect the Tradition present in the two Sahihs which is: "When one of you wakes up from his sleep let him wash his hands before putting them in the washing basin, for he does not know where his hand was at night". She said: And what do we do with the large stone basin [which cannot be carried to pour water to wash.

Omar also rejected the Tradition narrated by Fatimah the daughter of Qayss when she said: I slept the night after my husband divorced me and the Messenger of Allah (Prayers of Allah and His Peace upon him) did not rule for me any alimony or residence. Omar said: We will not leave the Book of our Lord and the Sunnah of our Prophet for a statement of a woman which we do not know whether it is the truth or a

lie, and whether it is something she really remembers or she has forgotten!

Ali (Allah honor his face) also rejected the Tradition narrated by Ma'qil Ibn Sinan Al-Ashja'i in the occurrence when Abdullah Ibn Mas'ud ruled that a woman whose husband died without determining a dowry for her and without having sexual intercourse with her yet that she is to have the same dowry as his other women without increase or decrease. Ma'qil attested after this - and made an oath to this effect - that the Messenger of Allah (Prayers of Allah and His Peace upon him) made the same ruling about Buru' the daughter of Washiq who also was from the tribe of Ashja'. Abdullah Ibn Mas'ud rejoiced in a matter he never did before as his ruling was the same of the Messenger of Allah (Prayers of Allah and His Peace upon him).

As for Ali, he did not accept this Tradition, he said: I will not take the word of a Bedouin over the Allah's Book. Ali (Allah honor his face) deduced through an analogy he made to death with divorce, and put deduction through analogy before the Tradition of a single person.

All of these preceding considerations clarify for us the ways of the Companions in their action according to the Sunnah, and reveals to us also the cause of their disagreements as we shall soon clarify.

3- Consensus (*Ijma'*)

One of the proofs of legislation is consensus (*Ijma'*), linguistically "*Ijma'*" means two things:

The first: is resolve, an example of this is Allah's saying: **"Get ye then an agreement about your plan"** [Surah of Jonah: 71].

﴿فَأَجْمِعُوا أَمْرَكُمْ﴾ [يونس: 71]

The second: is universal agreement, meaning when if the vast majority if not all people agree about a certain thing.

In the terminology of the scholars of the principles of religion, it is the name given to the agreement of all the diligent scholars of the nation at a certain age on a ruling of the law. So no consensus takes place if those other than the diligent scholars agree on a certain thing, or if some of the diligent scholars at a certain age agree on something and the rest disagree with them. There is no difference about this between the fourth guided Caliphs and the rest of the Companions and the followers of the Companions. Meaning that if the Companions agree about something and a follower who has reached the level of making diligence disagrees with them then no consensus is reached as those who agreed were not the entirety of the diligent men of knowledge, preservation from error is for the whole nation

The Possibility of Diligence

The consensus of the diligent men of knowledge of that age was easier and more feasible than the later ages. Most of the Companions and especially the ones illegible to perform diligence into the affairs of legislation inhabited the capital of the Islamic Caliphate which was Medina, the abode of the Prophetic Migration. Omar (Allah be pleased with him) had the foresight not to permit the Companions to leave Medina to the newly conquered lands, he did not permit any of them to

migrate to any city or country there except for an extreme necessity which the need of the conquest imposed. Their dispersion in the lands only took place in the time of the Caliphate of Uthman (Allah be pleased with him). So it was easy before that time for the people of jurisprudence and legislation to meet and discuss things so as to have a consensus and an agreement afterwards as the purpose of all was reaching the truth.

4- Opinion and Point of View

The Companions' Usage of Opinion and Their Attitude in it

The Companions (Allah be pleased with them) had no choice but to use opinion, for the texts were limited and the occurrences were multiplying without ceasing at any limit. So they inevitably had to turn the issue in all of its aspects until the aspect of correctness in it would appear to them, seeking the guidance of the general purposes of the law and its universal principles, and this is exactly what they did. It is narrated that many of the grand Companions had issues in which they gave their ruling according to their own opinions and view such as Abu Bakr, Omar, Zayd Ibn Thabit, Ubayy Ibn Ka'b, and Mu'ath Ibn Jabal.

The first thing among these things is the issue of the succession of the Prophet (Prayers of Allah and His Peace upon him), for neither the Book nor the Sunnah clearly stated this issue and there was no escape from using opinion and

point of view, and here is what transpired between them at that time:

Whilst the Messenger of Allah (Prayers of Allah and His Peace upon him) was in his bed after his death, a group of the Companions were occupied with preparing for his burial. The Ansar met under the roofed building of the Bani Sa'idah tribe wishing to give the post of the succession to their leader, Sa'd Ibn 'Ubadah. Then Abu Bakr and Omar and Abu Ubaidah Ibn Al-Jarrah came to them while they were like this. Abu Bakr made a speech among them clarifying that the Muhajirin are more worthy of this post, then there were among the Ansar those who said: A leader from you and a leader from us. Sa'd then said: This is the beginning of weakness by Allah. Abu Bakr also said: By Allah, two swords cannot enter into one scabbard, the leaders are from us and the councilors are from you. In the end the affair of the Caliphate was settled for Abu Bakr.

In the wake of this event many of the Arabs left paying the *Zakat* although they still affirmed that they were Muslims and raised the prayer. The question was raised: what is to be done with them while no similar occurrence had taken place at the age of Prophethood? They had to use opinions. Omar's view was that fighting them is forbidden, Abu Bakr argued against him until his argument prevailed and Omar agreed with him on fighting them.

So their direction and their purpose was reaching the truth wherever they find it, the one of them may leave his own opinion and adopt somebody else's opinion if he sees the truth in it.

The story of a man who was killed by a woman and her lover was raised to Omar. Omar hesitated to give a ruling about the issue: Would the many be killed in punishment for killing one person? Ali said to him: If a group of people partook in stealing a slain camel and each of them took a different organ, would you have cut off all of their hands? Omar said: Yes. Ali said: This is the same. Omar took his opinion and wrote to the governor he appointed there to kill them both, adding: If all the inhabitants of Sana'a partook in killing him then I would have ordered all of them killed.

They also disagreed about a common occurrence, which is that if a woman dies leaving behind a husband, a mother, siblings from the same mother a different father, and siblings from the same mother and father. Omar used to give the ones who were stated clearly in the Quran first, so the husband took half the property, the mother took one sixth, and the siblings from the same mother took one third, and nothing was left for the siblings from the same mother and father, they said to Omar: Assume that our father was a donkey, are we not from the same mother? So Omar changed his mind and gave them the same share as the other brothers.

The Most Famous of Those Who Accepted Opinion as Legislation

Omar (Allah be pleased with him) was the most skilled of the Companions in using opinion, and he was the one who used it the most. This is due to the insight, soundness of intellect, and the high quality of his opinions.

For instance, he deprived those who were recently reconciled to Islam from their right which they deserved by the text of the Book as what necessitated what they deserved no longer applied, for Allah (Exalted is He) made Islam too glorious and it was needless of them. He did not cut off the hand of the thief in the year of the draught as there was a suspicion of mitigating needfulness. He also made the woman who was at the waiting period after divorce everlastingly forbidden for the one who married her at that time as the ones who try to take something before its time would be punished by being deprived from it, and other countless things.

The most famous among those who used Omar's way was Abdullah Ibn Mas'ud. It is narrated that he almost did not disagree with Omar about anything in his manner. Ash-Shu'abi said: Abdullah used to not stand to supplicate in prayer, had Omar stood and supplicated then Abdullah would have done so. He also said: There were three who would seek each other's ruling in things: Omar, Abdullah Ibn Mas'ud, and Zayd Ibn Thabit. Another three also sought each other's ruling in things: Ali, Ubayy Ibn Ka'b, and Abu Musa Al-Ash'ari.

Reconciling the Disparagement of Opinion and Applying It

Since we have already seen that they did not find any problem with using opinion, and that they used it in deriving many judgments, we can only reach the conclusion that they disparaged opinions and those who used them to drive away

the ones unworthy of giving their opinions from doing so, this served the purpose of preventing people to be too daring in applying their own point of view to religion without having the knowledge to do so and this will lead them to introduce to the religion what is not part from religion. The blameworthy opinion is following passion in giving opinions without relying on any principle of religion according to which it is based. As for the praiseworthy opinion it is what Omar (Allah be pleased with him) said to the judge he appointed: Know things and their likenesses and then deduce through analogies afterwards. So acting according to the opinion is praiseworthy if it takes place through working according to what is understood from the text. One example of this is the opinions of the Companions who have witnessed the revelation and understood the purposes of the Messenger (Prayers of Allah and His Peace upon him).

Examples About Things About Which the Companions Disagreed

After you have seen the approaches of the Companions in the sources of legislation and the differentiation in their ways and attitudes in research and thinking, here we shall mention a few examples of the issues they disagreed about so as to clarify the causes of their disagreement.

1-Omar Ibn Al-Khattab and Ibn Mas'ud said that the pregnant woman whose husband dies must wait for the period at which she gives birth and then she may marry, Ali and Ibn Abbas maintained that she must wait for the farthest of the

two times [the time of birth or the four months and ten days the divorced or widowed woman must wait before she can get married].

The cause of this disagreement is the contradiction between two general texts, for Allah (Exalted is He) made the waiting period for the divorced pregnant woman the time until she gives birth, and made the waiting period for death four months and ten days without any details. Ali and Ibn Abbas maintained both Verses together and that each of them would particularize the generalization of the other. On the other hand Ibn Mas'ud said: He who wishes would have me make the most solemn of oaths that the Surah of the Women was revealed after the Surah of the Cow. This would mean that the Verse about the issue in the Surah of the Cow is particularized by the Verse about the issue of divorce in the Surah of the Women, what he maintained is further confirmed by what the Messenger of Allah (Prayers of Allah and His Peace upon him) ruled concerning the issue of Subay'ah Al-Aslamiyyah who gave birth a few days after her husband's death, the Messenger (Prayers of Allah and His Peace upon him) ruled that she is permitted to marry.

2-Ibn Mas'ud ruled - and Omar agreed with him about this - that the divorced woman is not permitted to exit from her period of waiting until she bathes from the third menstruation [meaning when it is over]. Zayd Ibn Thabit ruled that she is out of that period at the moment she begins to menstruate for the third time. The origin of this disagreement is in the linguistic understanding for the word referring to this

issue whether it means being pure from the menstruation period or the menstruation period itself.

3-Abu Bakr and Ibn Abbas maintained that the grandfather, like the father, takes precedence in inheritance over the brothers whoever they are as he was given the title "father" in the Quran. Other such as Omar and Ali and Zayd Ibn Thabit maintained that brothers from same father or from the same father and mother would partake in the inheritance with him as their level is one and the same as all of them are related to the dead person through the father.

4-Ibn Abbas ruled that the lady who dies leaving behind a husband and two parents would leave one half for the husband, one third for the mother, and the rest for the father, in this he was literal in upholding Allah's saying: **"if no children, and the parents are the (only) heirs, the mother has a third"** [Surah of the Women: 11].

﴿فَإِنْ لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتُهُ أَبَوَاهُ فَلَا تُمِيرُ الْثُلُثَ﴾ [النساء: 11]

Zayd Ibn Thabit and the rest of the notable Companions said: She has a third of what is left after what is to be inherited to the husband is given to him due to the meaning intended from the legislation of the ruling, for she and the father are male and female who have inherited through one way, so the male has the share of two females, similar to children and siblings.

5-Ibn Abbas said that the mother is not prevented from taking the third of the inheritance - in which case she would receive only one sixth of the inheritance - by two brothers or two sisters, but by three or more as Allah (Exalted is He)

says: **"if the deceased Left brothers (or sisters) the mother has a sixth"** [Surah of the Women: 11].

﴿فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ﴾ [النساء: 11]

Others said that the two brothers and the two sisters have the same meaning as the three as shown by Allah's saying in the Verse explaining what happens to those who die without leaving a parent or a son: **"but if more than two, they share in a third"** [Surah of the Women: 12].

﴿فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ﴾ [النساء: 12]

And Allah's saying: **"If there are two sisters, they shall have two-thirds of the inheritance (between them)"** [Surah of the Women: 176].

﴿فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ﴾ [النساء: 176]

And all are equal in brotherhood.

6-They disagreed whether selling the woman-slave who bears a child to her master is permissible or not, the cause of this disagreement originated in the following Tradition: Imam Ahmad related that Salamah the daughter of Ma'qil said: I was owned by Al-Habbab Ibn Omar and I had a son from him, when he died his wife said to me: Now you will be sold to pay back his debt. I came to the Messenger of Allah (Prayers of Allah and His Peace upon him) and mentioned this to him, the Messenger of Allah (Prayers of Allah and His Peace upon him) asked: "Who is the person in charge of Al-Habbab's inheritance?" and they said: His brother Abu Al-Yusr Ka'b Ibn Omar. The Messenger of Allah (Prayers of Allah and His Peace upon him) called for him and said: "Do not sell her and set her free, if you hear about any slaves

which come to my ownership then come to me and I will compensate you", after the death of the Messenger of Allah (Prayers of Allah and His Peace upon him) they disagreed about the issue, some said: She is owned and if it was not so he would not have compensated her for her. Others said: She is free, for he has set her free. And so was the disagreement.

7-Uthman Ibn 'Affan and Zayd Ibn Thabit ruled that the free woman who is married by a slave would be completely separated from her husband if she is divorced twice. Ali (Allah honor his face) disagreed with them about this issue, he maintained that she is to be completely separated after being divorced three times.

The origin of the disagreement is a difference in the point of view. They all agree that the slave has half the rights of the free man, but they disagreed whether divorce is to be based on the status of the husband or the wife in this case. Uthman and Zayd said that it is to be based on the status of the husband as he is the one who has the right to issue the divorce, Ali said that the status of the wife is to take precedence as she is the one who is being divorced.

8-Uthman (Allah be pleased with him) ruled that if a husband divorces his wife on his deathbed and if he dies before her waiting period is over then she is to inherit from him as if she is his wife, if he dies after her waiting period then she has no inheritance, this issue is based on his own diligence.

9-Omar Ibn Al-Khattab ruled that the woman in her waiting period who marries other than her divorcee during this time would be everlastingly forbidden to that man so as

to treat her disobedience of Allah's commandment with the opposite of her purpose, this severe judgment was for the preservation of the offspring taking absolute general and public interests into consideration. Ali (Allah honor his face) disagreed with him on this issue and said: If her waiting period from the first is over she may marry the second man as primordial permissibility would then apply.

10-Ibn Mas'ud and others ruled that if a husband makes an oath that his wife is forbidden to him and four months passed without him changing this oath then she is divorced one time, if her husband returns after this period then he is one of the many who ask for her hand in marriage, he would no longer have the priority. Others ruled that she is not automatically divorced after the period passed, but after it passes the husband is commanded to either return from his oath or to divorce.

The origin of the disagreement is that each party had a different understanding for the Verse relevant to this issue in the Surah of the Cow.

11-Omar Ibn Al-Khattab ruled that the divorced woman – if she still did not reach menopause- and if her waiting period extended without any menstruation then she is to wait for nine months, if no pregnancy appears on her then she is to wait for three months after the nine. Others said that she is to wait until she despairs and then she would have a waiting period based on the months.

Omar (Allah be pleased with him) looked into the meaning intended from the legislation of the waiting period, which is ensuring that the woman has no pregnancy, after the

period in which she is most likely to be pregnant no doubt would remain so she waits the allotted months. Others took the exoteric texts in the waiting period as the woman in the waiting period is one in who still menstruates and her waiting period in the texts is three menstrual cycles, there was nothing in the Verse to indicate waiting that long.

12-Omar Ibn Al-Khattab ruled that the woman who is divorced and is completely separated from her husband has the right of alimony and residence as Allah (Exalted is He) says: **"and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness"** [Surah of the Divorce: 1].

﴿لَا تَخْرُجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُبَيَّنَةٍ﴾

[الطلاق: 1]

As we have already mentioned he had rejected the Tradition of Fatimah the daughter of Qayss. Others have ruled that she has neither alimony nor the right for residence as they did accept the Tradition of Fatimah, they understood the Verse to refer to a woman which is not divorced in a manner which necessitates final separation since Allah (Exalted is He) says in it: **"perchance Allah will bring about thereafter some new situation"** [Surah of the Divorce: 1].

﴿لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا﴾ [الطلاق: 1]

If a woman is divorced thrice then there is no hope in a new situation then. Others have ruled that she has the right for residence and not alimony, they have affirmed the right of residence for her through the previous Verse and negated the right of alimony through what is understood from Allah's

saying: **"And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden"** [Surah of the Divorce: 6].

﴿وَأِنْ كُنَّ أَهْلًا حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ﴾ [الطلاق: 6]

Based on this they said: The woman who is not pregnant has not alimony.

13-Malik related from Ibn Shihab that the stray camels at the time of Omar (Allah be pleased with him) were free to mate and no one would touch them, when the time of Uthman Ibn Affan came he ordered them to be marked by their owner so that if their owner came to claim them he would be compensated for them and given their price. Omar (Allah be pleased with him) stood with the text in this issue, for the Messenger of Allah (Prayers of Allah and His Peace upon him) prohibited taking the stray camels and said: "What business do you have with them? Leave them for they have their food and drink, drinking from the water and eating from the trees until they meet their Lord". When Uthman (Allah be pleased with him) saw that people began taking these camels he ordered them marked so that taking them would be an affair of buying them and their price would be preserved to keep the absolute public and general interests.

14-Ibn Mas'ud ruled that if a woman's husband dies before he has sexual intercourse with her and who did not have an allotted dowry for her would deserve a dowry similar to his other wives in the inheritance of the deceased. His diligence agreed with what the Messenger of Allah (Prayers of Allah and His Peace upon him) in the affair of Buru' the daughter of Washiq Al-Aslamiyyah as related by Ma'qil Ibn

Sinan Al-Ashja'i. Ali disagreed with him and did not allow a dowry in such a case as when such a wife in that state was divorced then she would not any dowry. Allah (Exalted is He) says: **"There is no blame on you if ye divorce women before consummation or the fixation of their dower"** [Surah of the Cow: 236].

﴿لَا جُنَاحَ عَلَيْكُمْ إِن طَلَقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً﴾ [البقرة:

[236]

Ali (Allah honor his face) saw death as similar to divorce, he did not rule according to this Tradition as he is known to have been very severe in his criteria in accepting the relation of Traditions. Ibn Mas'ud did not see death as similar to divorce and this was supported by what Ma'qil Ibn Sinan Al-Ashja'i related.

15-Abu Bakr saw fit that all Muslims are to be given the same amount of money to all the people from the war spoils which arrived back from the conquered lands, his argument was that he would not make this state grant was not a reward for their actions, he would say: They became Muslims for the sake of Allah, so their rewards are from Allah, this world is but needs and these grants are mere means to allow them to get through it, so equality is better than preference. As for Omar, his own point of view was the preference of some over others based on merit, he would say: I will not make the one who left his home and property to migrate to the Prophet (Prayers of Allah and His Peace upon him) the same as one who has entered into Islam by force. And I will not make those who fought the Messenger of Allah the same as those who have fought with him.

16-When Iraq and the Levant were conquered people disagreed on what is to be done with the land which was conquered by force, Abd Ar-Rahman Ibn Awf, Ammar Ibn Yasser and many others said that it is to be divided into fifths and that four fifths are to be given to the conquerors and the remaining fifth is to be given to those who were mentioned in Allah's Book, this was to uphold Allah's saying: **"And know that out of all the booty that ye may acquire (in war), a fifth share is assigned to Allah"** [Surah of the Spoils of War: 41].

﴿وَأَعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ﴾ [الأنفال: 41]

While Omar, Uthman, Ali, Mu'ath Ibn Jabal, Talhah and others saw that the lands must be treated as spoils of war, it must left in the hands of its people and the benefits for it would be allocated to all Muslims through tax so as to be a means of income for the whole of the Muslim community financing the defense of the borders and the salaries of the judges, civil servants and the soldiers, and also covering the welfare of the widows, the orphans, and the needy so all the Muslims would benefit from it. Omar kept on arguing with the ones who opposed this view until he convinced all of them.

17-Ibn Abbas ruled that "pleasure marriage" (*Nikah Al-Mut'ah*) [a form of marriage which lasts for a short or fixed period of time determined before the marriage] is permissible, while Ali and Ibn Az-Zubayr and Jabir ruled that it is forbidden. The origin of the disagreement is that the Prophet (Prayers of Allah and His Peace upon him) permitted it before the Khaybar campaign then forbade it after the conquest of

Mecca, then he permitted it again in the Awtas campaign and then forbade it again. Ibn Abbas understood from what the Prophet (Prayers of Allah and His Peace upon him) did that the permission was for the sake of necessity and that after the necessity no longer existed it was forbidden, and that the rule remains, when there is a necessity it is permissible and when it is no longer there it returns to its prohibition. Others, however, understood that the prohibition annulled and prohibited permissibility altogether. It is related also that Ibn Abbas returned to the view of the majority towards the end of his life.

18-Uthman (Allah be pleased with him) ruled that the woman divorced through *Khul'* [which is divorce based on the woman's request and in which she pays the husband a compensation in return for divorcing her] has no waiting period, and that this form of divorce is an annulment of the marriage not an actual divorce, he argued for his judgment using the case of the wife of Thabit Ibn Qayss Ibn Shammās who was divorced from her husband through *Khul'* and the Prophet (Prayers of Allah and His Peace upon him) ordered her to wait for one menstrual cycle to take place and then to go to her family. Others, however, argued that *Khul'* is an actual divorce, and that woman divorced in this manner must have the same waiting period as other divorced women as she enters in the general judgment in Allah's saying: **"Divorced women shall wait concerning themselves for three monthly periods"** [Surah of the Cow: 228].

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾ [البقرة: 228]

What supports *Khul'* being an actual divorce is that the Prophet (Prayers of Allah and His Peace upon him) said to Thabit - when his wife accepted to return his garden to him -: "Accept the garden and divorce her once".

19-The Messenger of Allah (Prayers of Allah and His Peace upon him) resided in Al-Abtuh during the pilgrimage, so Abu Huraira and Ibn Omar maintained that this was part of the ritual of pilgrimage and made it one of the *Sunahs* of *Al-Hajj*. Ibn Abbas and Aisha maintained that this residence was accidental and was not part of the rituals.

20-Ibn Abbas maintained that trotting during circling the Ka'aba is not part of pilgrimage ritual, for the Prophet (Prayers of Allah and His Peace upon him) trotted in his circumscription to show strength when he heard the polytheists say: Muhammad and his Companions will come sickened by Yathrib's fever.

So the judgment no longer applies as the cause no longer exists. Others said that it is an act of the Sunnah in upholding his outward action (Prayers of Allah and His Peace upon him) without taking the cause of the legislation into consideration. Ibn Abbas relied on the meaning intended by the legislating the act.

These are some of the issues which give you a clear picture about how the Companions (Allah be pleased with them) acted in the events of diligence and derivation, and the causes of their disagreement about these issues is also clear from these examples.

Mecca, then he permitted it again in the Awtas campaign and then forbade it again. Ibn Abbas understood from what the Prophet (Prayers of Allah and His Peace upon him) did that the permission was for the sake of necessity and that after the necessity no longer existed it was forbidden, and that the rule remains, when there is a necessity it is permissible and when it is no longer there it returns to its prohibition. Others, however, understood that the prohibition annulled and prohibited permissibility altogether. It is related also that Ibn Abbas returned to the view of the majority towards the end of his life.

18-Uthman (Allah be pleased with him) ruled that the woman divorced through *Khul'* [which is divorce based on the woman's request and in which she pays the husband a compensation in return for divorcing her] has no waiting period, and that this form of divorce is an annulment of the marriage not an actual divorce, he argued for his judgment using the case of the wife of Thabit Ibn Qayss Ibn Shammas who was divorced from her husband through *Khul'* and the Prophet (Prayers of Allah and His Peace upon him) ordered her to wait for one menstrual cycle to take place and then to go to her family. Others, however, argued that *Khul'* is an actual divorce, and that woman divorced in this manner must have the same waiting period as other divorced women as she enters in the general judgment in Allah's saying: **"Divorced women shall wait concerning themselves for three monthly periods"** [Surah of the Cow: 228].

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾ [البقرة: 228]

What supports *Khul'* being an actual divorce is that the Prophet (Prayers of Allah and His Peace upon him) said to Thabit - when his wife accepted to return his garden to him -: "Accept the garden and divorce her once".

19-The Messenger of Allah (Prayers of Allah and His Peace upon him) resided in Al-Abtuh during the pilgrimage, so Abu Huraira and Ibn Omar maintained that this was part of the ritual of pilgrimage and made it one of the *Sunahs* of *Al-Hajj*. Ibn Abbas and Aisha maintained that this residence was accidental and was not part of the rituals.

20-Ibn Abbas maintained that trotting during circling the Ka'aba is not part of pilgrimage ritual, for the Prophet (Prayers of Allah and His Peace upon him) trotted in his circumscription to show strength when he heard the polytheists say: Muhammad and his Companions will come sickened by Yathrib's fever.

So the judgment no longer applies as the cause no longer exists. Others said that it is an act of the Sunnah in upholding his outward action (Prayers of Allah and His Peace upon him) without taking the cause of the legislation into consideration. Ibn Abbas relied on the meaning intended by the legislating the act.

These are some of the issues which give you a clear picture about how the Companions (Allah be pleased with them) acted in the events of diligence and derivation, and the causes of their disagreement about these issues is also clear from these examples.

Summary

We can summarize the causes of these disagreements in three things:

1-The Quran: Their disagreement about understanding it, you have also seen that disagreement also takes place as the result of the texts contradicting each other such as the case in the waiting period after death and that of the pregnant women, at other times it takes place as the result of one text being receptive to two meanings such as the word (*Qar'*) which refers to the waiting period in Arabic. There are also disagreements because the composition of the text itself accepts two interpretations such as Allah's saying: **"if then they return, Allah is Oft-forgiving, Most Merciful. But if their intention is firm for divorce, Allah heareth and knoweth all things"** [Surah of the Cow: 226-227].

﴿فَإِنْ فَأَوْ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾ وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٢٧﴾

[البقرة: 226، 227]

For it may be arranged according to what is before it the way details come after summarization so that returning would be in the period and if the period passes without any return then divorce would automatically take place with its passage. And it can also be for real arrangement and in this case seeking the return or the divorce would take place after the appointed waiting period.

2-The Sunnah: the Prophet (Prayers of Allah and His Peace upon him) spent the time from the beginning of his Message until his death, a period spanning twenty three years, telling the nation what to do and what not to do, or affirming certain actions which he sees and denying others. There are certain Companions who embraced Islam at an early stage

and others who were late in doing so. There are between them those to whom war and defense of the Muslim nation was entrusted and others who were appointed to collect the alms and others who were sent to teach the people the Quran. So some of them remained in the company of the Prophet (Prayers of Allah and His Peace upon him) for periods longer than others, this resulted in the knowledge of the Sunnah being dispersed among them. Some of them narrated very few Traditions, others narrated many, and no individual among them was able to collect the entirety of the Sunnah as there was no writing at that age. What is unknown to each of them, no matter who he was, was more than what is known by him and this is why they would all ask each other. But their ways in taking what is narrated by others varied, you have already seen how meticulous Abu Bakr, Omar, and Ali were in accepting what is related about the Messenger (Prayers of Allah and His Peace upon him), this was based on their care so that the purity of the religion would remain intact, but nonetheless this played its role in the difference which took place.

Another cause of disagreement is that one of them may act according to his own opinion because he was unable to find a text specifying what to do. In that case then the text would appear indicating the exact opposite of his opinion, for Muslim narrated that Ibn Omar used to command the women to loosen their hair when they bathe from sexual intercourse, when Aisha heard about this she said: I wonder about Ibn Omar! I used to bathe from the same water basin. I would not do anything except pour water three times over my head.

Summary

We can summarize the causes of these disagreements in three things:

1-The Quran: Their disagreement about understanding it, you have also seen that disagreement also takes place as the result of the texts contradicting each other such as the case in the waiting period after death and that of the pregnant women, at other times it takes place as the result of one text being receptive to two meanings such as the word (*Qar'*) which refers to the waiting period in Arabic. There are also disagreements because the composition of the text itself accepts two interpretations such as Allah's saying: **"if then they return, Allah is Oft-forgiving, Most Merciful. But if their intention is firm for divorce, Allah heareth and knoweth all things"** [Surah of the Cow: 226-227].

﴿فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾ وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٢٧﴾

[البقرة: 226، 227]

For it may be arranged according to what is before it the way details come after summarization so that returning would be in the period and if the period passes without any return then divorce would automatically take place with its passage. And it can also be for real arrangement and in this case seeking the return or the divorce would take place after the appointed waiting period.

2-The Sunnah: the Prophet (Prayers of Allah and His Peace upon him) spent the time from the beginning of his Message until his death, a period spanning twenty three years, telling the nation what to do and what not to do, or affirming certain actions which he sees and denying others. There are certain Companions who embraced Islam at an early stage

and others who were late in doing so. There are between them those to whom war and defense of the Muslim nation was entrusted and others who were appointed to collect the alms and others who were sent to teach the people the Quran. So some of them remained in the company of the Prophet (Prayers of Allah and His Peace upon him) for periods longer than others, this resulted in the knowledge of the Sunnah being dispersed among them. Some of them narrated very few Traditions, others narrated many, and no individual among them was able to collect the entirety of the Sunnah as there was no writing at that age. What is unknown to each of them, no matter who he was, was more than what is known by him and this is why they would all ask each other. But their ways in taking what is narrated by others varied, you have already seen how meticulous Abu Bakr, Omar, and Ali were in accepting what is related about the Messenger (Prayers of Allah and His Peace upon him), this was based on their care so that the purity of the religion would remain intact, but nonetheless this played its role in the difference which took place.

Another cause of disagreement is that one of them may act according to his own opinion because he was unable to find a text specifying what to do. In that case then the text would appear indicating the exact opposite of his opinion, for Muslim narrated that Ibn Omar used to command the women to loosen their hair when they bathe from sexual intercourse, when Aisha heard about this she said: I wonder about Ibn Omar! I used to bathe from the same water basin. I would not do anything except pour water three times over my head.

Abu Musa Al-Ash'ari was asked about the inheritance for a daughter, the daughter of a son, and a sister. He said: The daughter has half and the sister has half, but Ibn Mas'ud want not agree with me about this. Ibn Mas'ud was asked about the same issue and was told about what Abu Musa said, his reply was: I would be misguided if I agree with him, I would not be guided at all, I will rule solely according to what the Messenger of Allah (Prayers of Allah and His Peace upon him) ruled: The daughter has half and the son's daughter has one sixth completing two thirds, as for what is left, this belongs to the sister. Abu Musa submitted to the ruling of Ibn Mas'ud, when he was told about it he said: Do not ask me as long as these tidings are in your midst.

Another cause is that a Companion may act according to a Tradition which was annulled without him knowing so but others would knew that it was annulled. An example of this is placing one's hands on each other when one is kneeling, Ibn Mas'ud used this Tradition on the basis of it not being annulled, while Sa'd Ibn Abi Waqqass was aware of its annulment and narrated the Tradition which annuls it. Most of the jurists use Sa'd's Tradition, both Traditions are correct and related in the Sahih (correct Traditions).

We have already explained that they also may reject the Tradition out of lacking trust in the preson who narrartes it or because it was contradicted by a more binding Tradition or text. An example of this is when Omar rejected the Tradition of Fatimah the daughter of Qayss and when Ali rejected the Tradition of Ma'qil. Many examples of this have already been mentioned.

In general, the fact that narrating Traditions was not very common and the fact that they were very meticulous about accepting the Traditions of the Sunnah narrated to them made them rule according to what is generally understood from the Quranic Texts. There could be a text in the Sunnah which would particularize a generalization in the Quram, and at times they would produce the ruling according to diligence and opinion and correcting this according to a Tradition which they did not know about earlier.

3-Opinion and Point of View: You have seen that many of them would use their individual opinion and point of view if they did not find a text in the Book and the Sunnah. That opinion for them is what the heart maintains as correct after thought and meditation and seeking the aspect of truth, whether this was through deduction by way of analogy or otherwise. It is also obvious that opinions vary with the variation of the point of view, so each has a direction unto which he turns his face. We have already mentioned many issues and cases in which disagreement was based on opinion.

Despite all this, they only disagreed about a few things, the disagreement between them did not grow as vast as it did in the later ages. This was helped by the following factors:

- 1- The agreement on the principle of counseling (*Shura*) between them.
- 2- The relative ease for a possibility for a consensus as all the great Companions and the ones illegible for issuing judgments were in one place.

- 3- The fact that Traditions were not narrated often, Omar has discouraged them from narrated many Traditions and threatened those who did with punishment.
- 4- The fewness of the occurrences if compared with the later ages.
- 5- The fact that they often abstained from issuing judgments and directed those who asked to others and the fact that they only searched into what actually took place with them.

This age ended without a single text of jurisprudence being written. The rulings and the judgments which were issued at that age were learnt in the hearts of men and were transmitted to the later generations through the younger Companions and the older followers of the Companions so as the later generations would use these rulings and verdicts to decide on the accidents upon which any of these texts apply. The most famous of people to issue rulings, judgments and verdicts at that time were: the four guided Caliphs, Zayd Ibn Thabit, Aisha the mother of the faithful, Abu Musa Al-Ash'ari, Anass Ibn Malik, Abdullah Ibn Omar Ibn Al-Khattab, Abdullah Ibn Abbas, Abdullah Ibn Mas'ud, Abdullah Ibn Amr Ibn Al-'As, and Mu'ath Ibn Jabal.

Now we shall mention the biographies of some of those who had leadership in the aspects of legislation.

Omar

He is Omar Ibn Al-Khattab Ibn Nufayl Al-'Adawi Al-Qurashi. Before Islam he was honored by Quraish to the extent of being their ambassador. His profession was

commerce until he became too occupied from it through the interests of the Muslims at the time of his Caliphate. Before he became a Muslim the Muslims used to meet in the house of Al-Arqam Ibn Abi Al-Arqam Al-Makhzoumi in secret due to the fewness of their number and the severity with which Quraish dealt with them. They had to increase the number of those among them who had the power, the daring and the courage which would allow them to make their religion public and defend their Prophet.

Omar Ibn Al-Khattab and Abu Jahl were both known for their great strength and courage in addition to having a word which is acceptable by others and also as descendents from a noble house within their respective clans. The Prophet (Prayers of Allah and His Peace upon him) expected goodness for the Muslims through one of the two becoming Muslims: "O Allah, make Islam powerful through the man You love most among the two: Omar Ibn Al-Khattab or Amr Ibn Hisham". Allah (Exalted is He) answered his supplication and Omar became a Muslim in the month of Thu Al-Hijjah in the sixth year after the Prophet was sent. Thirty nine men and twenty three women became Muslims before him. When he became a Muslim he said: O Messenger of Allah, why do we hide our religion whilst it is the truth and theirs is falsehood? The Messenger of Allah (Prayers of Allah and His Peace upon him) said: "There are very few of us and you have seen what we have encountered". Omar said to him: By the One who has sent you with the truth, I will sit as a believer in every assembly in which I sat an infidel.

Then the Messenger of Allah went out to the Ka'aba in two columns of believers, Hamza led one of them and Omar the other, when Quraish saw Hamza and Omar they were greatly distressed. The Messenger of Allah (Prayers of Allah and His Peace upon him) called him *Al-Faruq* (the one who distinguishes right from wrong) as he made Islam public and divided between truth and falsehood.

Abdullah Ibn Mas'ud said: Omar's conversion to Islam was an opening, his immigration was a victory, and his leadership was a mercy, I have seen a time when we were unable to pray in the Ka'aba until Omar became a Muslim, when he embraced Islam he faced them until they left us to pray. He kept on defending the Muslims and struggling for the Master of the Messengers until they were given the permission to immigrate, they all immigrated in secret except for Omar who, due to his great strength over Quraish, immigrated publically.

It is narrated that Ali (Allah honor his face) said: I do not know of any of the Muhajirin who did not immigrate in secret except for Omar, for when he was about to immigrate he carried his sword, put his bow on his back, carried a few arrows in his hand, and went to the Ka'aba while most of Quraish were in its yard, he went about the House seven times and then came to the station and prayed without anyone struggling with him, then he stood over the people one by one and said to them: What ugly faces! May Allah bring down all of these noses! He who wishes to make his mother lose him, or his son an orphan, or his wife a widow let him follow me beyond that valley. No one of the infidels followed him, a

number of the weak people went after him and he taught them and guided them then went on his way.

The Messenger of Allah (Prayers of Allah and His Peace upon him) used to seek the council of the Companions in some of his affairs, Abu Bakr and Omar used to have the best of opinions for him as their words were true and their dedication and sincerity were great. It is related that the Prophet (Prayers of Allah and His Peace upon him) said: "Allah has made the truth on the tongue of Omar and in his heart", he also said: "There were in the nations before us people to whom Allah had spoken, if there is such a person in my nation it is Omar".

It suffices as proof of Omar's merit and the plentitude of his knowledge the times which his view agreed with the Quran and revelation. These have reached more than ten times. One of these is that he once said in a wishful tone: If only we would take the station of Abraham as a place of prayer! Then the Verse was revealed to that very effect, another is that he said to the Prophet (Prayers of Allah and His Peace upon him): Good and evil people both enter to your quarters, if you would ask your wives to veil themselves. And then the Verse of the veiling was revealed. Another is that he said: O Allah, clarify for us in an unmistakable manner the ruling on alcohol. The Verse forbidding it was then revealed. He had the opinion to kill the captives of Badr and others disagreed with him, but the Quran was revealed maintaining that his view is correct. He said to the wives of the Prophet (Prayers of Allah and His Peace upon him) when they made the Prophet angry: Perhaps his Lord, if he divorces you,

would replace you with wives better than you. The Verse stating the same threat was then revealed.

His letter to Abu Musa Al-Ash'ari attests to the vastness of his knowledge and the inclusiveness of his justice and the good policies which he had followed. Despite its briefness, this book was made as the guiding principle for all of Islamic judicial authorities. A great many benefits were drawn from it by the scholars. This is the text of the letter:

After this, being a judge is a firm appointment and a followed Sunnah, so you must understand if an argument is presented before you. You must execute what is right once it becomes clear to you for it is useless to speak the truth if you do not make the truth occur in actuality. Make people equal in your direction and assembly and justice so that the weak would not despair from your justice and the notables would not covet your injustice. Proof must be produced from the one who makes claims attesting to truth of what he claims. The one who denies something must make a solemn oath about what he denies. Reconciliation between the Muslims is possible unless it is one which permits something forbidden or forbids something which is permissible. He who claims an absent right or proof, give him a time limit to produce it, if he does then give him the verdict rightfully his, and if he fails to do so then he has excused you from his case. Do not be prevented by a verdict you issued in the past and which you revised in yourself and found yourself to be mistaken from returning to the truth, for the truth is everlasting and returning to it is better than going on with falsehood. After this understand what takes place in your heart through what

reaches you from the Quran and the Sunnah. Know the things which are alike and what is similar to what and then based on this and after it deduce through analogy in the affairs following the things most loved by Allah (Exalted is He) and which bear the closest resemblance to the truth in what you see. Beware of being angry, anxious, annoyed, bored, or hurt by the people for being a judge in its place is something through which Allah necessitated reward and good remembrance. So he whose intention is pure for the truth even over his own self would have Allah suffice him in all things between himself and the people, and he who adorns himself with what he does not have would be flawed by Allah (Exalted is He), for he only accepts the act of worship if it is purely done for Him.

Omar (Allah be pleased with him) had an instinctive power of judgment about things and finding the truth about justice and injustice. His vast experience with the world around him, his intellect which was great in the administration of the affairs of the state and the order of things, his mature views about legislation, his kindness and fairness to Muslims, and his care for their interests and standing with the truth, and his reverence for following the footsteps of the Messenger of Allah (Prayers of Allah and His Peace upon him) were all among his merits. So he bestowed many favors to the Islamic nation in terms of politics, conquests, justice, righteousness, spreading the religion and knowledge, security and refinement, and extending Islamic power in addition to the organization of the state and regulating its administration.

He also has the merit in deriving many of the rules in which he reflected the spirit of Islamic legislation and the public and individual interest which the law was revealed to preserve and you have already seen many instances of this. The Companions and their followers praised him often and it suffices for us to relate some of the Traditions of the Messenger (Prayers of Allah and His Peace upon him) which attest to his scientific and religion merit, the Prophet (Prayers of Allah and His Peace upon him) said: "While I was asleep I was given a glass of milk, I drank from it until I saw it quenching me to the extent that it came out from my nails, and then I gave what was left from my drink to Omar". He was asked: How did you interpret the milk in this dream? He said: "Knowledge". Another is that the Prophet (Prayers of Allah and His Peace upon him) said: "While I was asleep I saw people shown to me dressed in a shirt, some of them were long enough to reach the breast and some were shorter, then Omar Ibn Al-Khattab was shown to me and his shirt was so long he had to pull it behind him". They said: How did you interpret this, O Messenger of Allah? He said: "As religion".

He narrated 539 Traditions from the Messenger of Allah (Prayers of Allah and His Peace upon him), Al-Bukhari and Muslim agreed on 26 of them, Al-Bukhari singularly narrated 34 of them, and Muslim singularly narrated 21 of them.

The fewness of the Traditions he narrated originates in the fact that he disliked Traditions to be narrated often. He discouraged and prohibited people from doing so imprisoning some of those who narrated too many Traditions. The cause of this was that he feared that the Traditions would become so

common that Traditions would falsely attributed to the Messenger of Allah (Prayers of Allah and His Peace upon him), in addition to his fear that relating Traditions would prevent people from reciting the Quran, this is also joined by what he is related to have said to Abu Bakr (Allah be pleased with him).

On all cases, Omar's most prominent aspect in terms of knowledge is his jurisprudence, ability to provide judgments and rulings, and acting according to opinion and point of view. You will see in the following traditions the level of his asceticism and humility. Talhah Ibn Abdullah said: Omar Ibn Al-Khattab was not the first among us to become a Muslim nor was he the one who immigrated unto Allah first, but he was the one to reach the highest level of renunciation of this world among us, and he was the one to seek the Hereafter most among us. He used to dress patched clothes, he would never gather two types of food to eat it with his bread, Utbah once entered to his presence while Omar was eating bread and oil, Omar called him to eat with him, Utbah went to eat and found the food so rough he was unable to eat from it. He pointed out to Omar that there is a better quality of bread, but Omar refused to buy it arguing that many Muslims were not able to buy from it as their means do not allow them to do so. There are many Traditions attesting to his virtues and merits.

He was given the succession to the Caliphate by a mandate from Abu Bakr (Allah be pleased with him). His Caliphate was a blessing for the Muslims, he was an example in leading good policies, having a far-reaching vision, the establishment of justice, the preservation of Allah's limits,

and standing over the interests of the subjects. His biography (Allah be pleased with him) is filled with merits, Imam Ali (Allah honor his face) spoke the truth when he said: Allah has made Abu Bakr and Omar a proof over those who come after then since birth until the Day of the Resurrection, they have gone farther than all by a long distance, they have set an example which is very difficult to follow by those who will come after them, so their memory is a cause of sadness for the nation, it is a proof against the Imams who came after them.

Omar (Allah be pleased with him) was assassinated at the hands of Abu Lu'lu'ah, a slave of Al-Mughirah Ibn Shu'bah. The cause was that Omar did not accept to decrease the tax his master imposed on him. While Omar lay dying he did not ignore the affairs of the state, he organized for them a council for deliberation over who is to be Caliph after him. He appointed in it six members who are the people whom the Messenger of Allah (Prayers of Allah and His Peace upon him) died whilst being pleased with them, and those were: Ali, Talhah, Sa'd Ibn Abi Waqqass, Abd Ar-Rahman Ibn Awf, Uthman, and Az-Zubayr, and he clarified how the election is to take place. By doing so he used a middle way, he did not leave the Caliphate without any mandate as did the Messenger of Allah (Prayers of Allah and His Peace upon him), and by doing so Omar avoided the disagreements and struggles which may have taken place. He had already seen firsthand the disagreement which took place at the time the allegiance was given to Abu Bakr. He also did not give a mandate the way Abu Bakr did because he believed this

would better preserve his piety as he does not know which person is fittest to rule after him.

Zayd Ibn Thabit

He is Abu Sa'id Zayd Ibn Thabit Ad-Dahhak An-Najjari Al-Ansari. The Prophet (Prayers of Allah and His Peace upon him) came to Medina when he was eleven years old. He had already learnt sixteen Surahs from the Holy Quran by then. He witnessed the Battle of Al-Khandaq and all the campaigns with the Messenger of Allah afterwards. The Messenger of Allah (Prayers of Allah and His Peace upon him) gave him the standard of An-Najjar tribe in the Tabuk campaign, before that 'Umarah Ibn Hulzum carried it, when 'Umarah asked about the cause for it being taken away from him the Messenger of Allah (Prayers of Allah and His Peace upon him) said: "The Quran comes foremost and Zayd has taken more of the Quran than you did". He used to write the Revelation and messages for the Messenger of Allah (Prayers of Allah and His Peace upon him).

It is narrated from him that he had said: The Prophet (Prayers of Allah and His Peace upon him) once said to me: "I write for certain people and I fear that they would put words other than the ones I said or to decrease from my words, so learn Syraic". I learnt it within seventeen days.

He also learned Hebrew in fifteen days. He used to write for Abu Bakr and Omar during their Caliphate, he was given the administration of the State Treasury during the Caliphate of Uthman. Whenever Omar or Uthman would perform the pilgrimage, they would leave him as the ruler of Medina. He

is the one who collected the Holy Quran with the encouragement of Abu Bakr and Omar, Abu Bakr said: You are a heedful and well-learned young man and we have no doubt in you. This statement suffices to attest to his merit. Zayd was a chief in the judicial affairs, issuing rulings and verdicts on things, recital of the Quran, and what is allotted in the inheritance.

The Prophet (Prayers of Allah and His Peace upon him) is known to have said to the Companion: "The one most able to divide the inheritances among you is Zayd". Ash-Shu'abi said: Zayd became better than all people in two things: the allotted parts of the inheritances and the Quran. Ibn Abbas said: The ones who are still alive among Muhammad's Companions have all known that Zayd Ibn Thabit is one of those who are firm in knowledge.

In general, he was extremely well-learned, well-versed in the understanding of the teachings of Islam, having a great ability to derive judgments, having a good opinion about the things in which no text is mentioned.

Suleiman Ibn Yassar said: Neither Omar nor Uthman ever put anybody before Zayd Ibn Thabit in judicial affairs, issuing verdicts, allotment of inheritances, and the recital of the Quran.

He narrated 92 Traditions from the Messenger of Allah (Prayers of Allah and His Peace upon him), Al-Bukhari and Muslim agreed on five of them, Al-Bukhari was singular in relating four, and Muslim was singular in relating one.

He died (Allah be pleased with him) in the year 45 A.H.

Abdullah Ibn Omar

He is Abdullah Ibn Omar Ibn Al-Khattab Al-'Adawi Al-Qurashi, he became a Muslim with his father before he reached adolescence and immigrated to Medina before him. He witnessed the battle of Al-Khandaq and all the campaigns after it with the Prophet (Prayers of Allah and His Peace upon him), there was nobody more committed or who followed the footsteps of the Messenger more than Ibn Omar did. He would even reside where the Prophet resided, he would pray in any place the Prophet prayed at, would let his camel sit where the Prophet's camel sat. It is narrated that the Prophet (Prayers of Allah and His Peace upon him) sat under a tree and Ibn Omar used to keep on caring for it and watering it so it would not wither. He is one of the six who have narrated many Traditions, 1630 Traditions are narrated from him. Al-Bukhari and Muslim agree on 170 of them, Al-Bukhari was singular in 81, and Muslim was singular in 31.

Ibn Omar was given strength in war, worship, asceticism, knowledge of the Hereafter and preference for it. Ibn Mas'ud said: He is one of the people of Quraish most capable to withhold himself from this world.

He had an intelligent mind with great acumen and insight. This was manifest in the story in which the Prophet (Prayers of Allah and His Peace upon him) said: "There is among the trees a tree whose leaves never fall, it is like the Muslim, so tell me: Which one is it?" People began to mention the various trees of the desert, but it was Ibn Omar who realized that it is the palm tree. He did not, however, direct this intelligence to jurisprudence and the process of the derivation of judgments and the usage of opinions. He directed his care

to the preservation of the Traditions and to the meticulous care in transmitting them. Abu Ja'afar said: None of the Companions of the Messenger of Allah (Prayers of Allah and His Peace upon him) was able to preserve the Traditions he heard from the Messenger of Allah without adding something or taking away something from it the way Abdullah Ibn Omar Ibn Al-Khattab did.

Ash-Shu'abi said: He was good in Traditions but he was not so good in jurisprudence, extreme piety and fear from Allah drove him not to issue too many verdicts and rulings despite having been placed in the front of issuing these judgments for sixty years, and for the very same reason he did not enter into any of the schisms which tore the nation.

Ibn Al-Athir said: Ibn Omar was extremely careful and meticulous in the preservation of his religion in issuing judgments and in all the affairs relating to his own self. Despite the fact that the people of the Levant loved him and were inclined to accept him as a Caliph he did not strive to be one in any way, and he did not fight in any of the seditions which took over the nation, and did not attend any of the battles with Ali. So despite his intellectual merit he gathered many Traditions and transmitted them accurately, he did not derive judgments or provide verdicts on things often. His manner of jurisprudence was the origin from which the school of the jurisprudence of Medina began which later developed to the school of Malik and his followers.

Abdullah died in Mecca after the pilgrimage in the year 73 A.H., he was 84 years old.

Ibn Mas'ud

He is Abu Abd Ar-Rahman Abdullah Ibn Mas'ud Ibn Ghafil Al-Hathli, he is sometimes called after his mother: Ibn Umm Abd. He is one of the first Muslims, he said: There was a time when I was the sixth of six people, there were no Muslims on the face of the earth except us.

He is the first to publically recite the Quran and make Quraish hear it. He immigrated to Abyssinia and then to Medina. He witnessed the battles of Badr, Uhud, and all the campaigns. He is the one who finished off Abu Jahl in the battle of Badr. The Messenger of Allah (Prayers of Allah and His Peace upon him) attested to him that he will enter Paradise. He would remain in the companionship and the service of the Prophet (Prayers of Allah and His Peace upon him): he would carry the Prophet's *Suwak* [stick used for brushing teeth], ablutions water, and shoes for him, he would dress the Prophet with his shoes if he stood up, take them off for him and carry them in his arms if he sat down, he would walk in front of him if he walked, he would cover him if he bathed, he would wake him up if he slept, and enter into his house without being veiled from it so that some people even thought that he was a close relative of the Prophet. It is narrated in Al-Bukhari and Muslim from Abu Musa Al-Ash'ari that he said: Me and my brother came from Yemen, we stayed a while believing that Ibn Mas'ud and his mother are among the people of the household of the Messenger of Allah (Prayers of Allah and His Peace upon him) due to the frequency of his entrance and his mother's entrance to the

presence of the Messenger of Allah (Prayers of Allah and His Peace upon him) and his persistence in his companionship”.

Huthaifah was asked: Tell us about a man who is close in manners, indication, and guidance to the Messenger of Allah (Prayers of Allah and His Peace upon him) so that we may learn from him. He said: We do not know of anyone who is closer in manners, indication, and guidance to the Messenger of Allah from Ibn Umm Abd.

All the Companions of Muhammad (Prayers of Allah and His Peace upon him) who are still alive know that Ibn Umm Abd is the one with the closest means unto Allah. Uqbah Ibn Amer said: I do not know anyone who knows more about what was revealed to Muhammad than Abdullah. Abu Musa then said: If you say so, then this is because he used to listen at times when we could not listen and enter at times when we could not enter.

It is narrated from him that he said: I took seventy Surahs directly from the mouth of the Messenger of Allah (Prayers of Allah and His Peace upon him). He also narrated 848 Traditions about him, Al-Bukhari and Muslim agreed on 64 of those, Al-Bukhari was singular in narrating 21 of them, and Muslim was singular in narrating 35. He was one of the most insightful of the Companions in the affairs of issuing verdicts and he was one of their masters in the Quran and in jurisprudence.

When Omar directed him to Al-Kufah he wrote to its people: I have sent Ammar Ibn Yasser as your governor and Abdullah Ibn Mas‘ud as a councilor and teacher, they are both of the chiefs among the Companions of the Messenger of

Allah (Prayers of Allah and His Peace upon him) and the people of Badr, so follow their example and obey them and listen to what they say. I have preferred you with Abdullah to my own self.

He resided in Kufah where its people received knowledge of the Traditions and jurisprudence from him. He was their teacher, their judge, and the one to establish their way. You have already seen that Ibn Mas‘ud took the way of Omar and used opinion when there was no text. One of those who learned his way was ‘Alqamah Ibn Qayss An-Nakh‘i, Ibrahim An-Nakh‘i in his turn received it from ‘Alqamah, and Ibrahim is the Sheikh of Hammad Ibn Abi Suleiman, and Hammad is Abu Hanifah’s Sheikh.

It is narrated from Ibrahim An-Nakh‘i that he did not seek anything more once he saw that Omar and Ibn Mas‘ud agreed with each other, if they disagreed then Abdullah’s view was more liked by him as it was more subtle.

When Ali came to Kufah certain people came to him and mentioned to him some of what Abdullah said, they said: O prince of the faithful, we have never met a man with better manners, or a kinder teacher, or a person better to sit with, or someone more pious than Abdullah. Ali said: I ask you by Allah, is this the truth as it is in your hearts?

They said: Yes. He said: O Allah, I testify before You that I say about him as they say and more, for he had recited the Quran following what is permissible in it and leaving what is forbidden, he is insightful into religion, knowledgeable about the Sunnah.

He was given the administration of the State Treasury for Omar and Uthman, towards the end of his life he came back to Medina and he died in it in the Caliphate of Uthman in the year 32 A.H.

The Third Stage Legislation from the end of the Time of the Guided Caliphs to the beginning of the Second Hijri Century, the State of Legislation at that Age

(First) At the beginning of the third stage legislation took place in the same manner it did in the second age from the aspect of its reliance on the Quran and the Sunnah and Consensus and deduction through analogy. But the principle of counseling (*Shura*) did not bear the same weight it did before due to the schisms which took place among the Muslims and their disagreement about the Caliphate and who is more worthy of filling its post. This divided the Muslims into three distinct groups: the Khawarij, the Shiites, and the majority of the moderates. Each of these sects became entrenched in its own opinions and were drawn to the notable persons they entrusted making him their Imams. Each group understood trustworthiness in terms of knowledge exclusive to the jurists and men of knowledge who uphold the opinions of that sect thinking badly about all others so that a consensus was no longer possible except by way of a coincidence.

This political disagreement was the first of the causes which led to the disturbance of the means of religious knowledge and which later led to a great effect in the branching of juristic disagreements.

(Second) The Muslim men of knowledge dispersed in the lands, they were no longer limited in one place as they were before.

(Third) The moderate majority took two general directions in juristic issues: One which stood at taking the texts literally, and these were mostly called the people of the Traditions (*Ahl Al-Hadith*), the other group found the new judgments and rulings through deduction by analogy and they were mostly called: the people of opinions (*Ahl Ar-Ra'y*).

(Fourth) The narration and transmission of Traditions became commonplace after people used to be careful not to do so out of fear of telling a lie at the tongue of the Messenger of Allah (Prayers of Allah and His Peace upon him), but the need drove them to do so.

(Fifth) The appearance of liars who would narrate baseless Traditions and put them into the Prophet's mouth. Their number became distressingly high as the intruders into Islam took the opportunity of people becoming so thirsty and receptive to Traditions and they introduced whatever they wished into these Traditions. They publicized many of their falsehoods between the people in the form of Traditions.

(Sixth) The appearance of the foreigners who entered into Islam who reaped many benefits in terms of knowledge which they received from Islam and from the Muslim men of knowledge they came in contact with due to the Islamic conquest of their lands. They, in their turn, contributed with their own talents and research into this evolution of the forms of knowledge which was no longer confined to the Arabs as it was in its beginning.

All of these causes collected together contributed to the raging disagreement about the juristic branches. It was the cause of argumentation and struggle between the jurists both as individuals and as groups so that the differences between the schools grew larger and larger and the task of the jurist (*Al-Faqih*) became increasingly difficult. The derivation of judgments was no longer readily present to the ones searching for them. Reaching the truth and knowing its aspect between what is known to the people required a greater effort now. This state of affairs required the special care of those who are searching into the phases of jurisprudence, and many chapters were written by them on this topic. Here are some of the things which must be said about that age:

A General Discussion of the Khawarij and the Shiites

In most of the affairs of the previous age the Muslims were generally united. They had the same word as their guidance. Words such as "Khawarij" and "Shiites" did not indicate any particular sect at the time of the Prophet (Prayers of Allah and His Peace upon him). As a matter of fact these words did not have any special meaning to the people except after Ali became the Caliph and all the issues which were related to this post being given to him, each of these words indicates a sect which were with Ali in giving him allegiance and calling unto him until they were further divided in their points of view into further sects.

When chaos found its way into the Caliphate during the rule of Uthman and conspiracies took their toll on the state until they ended with killing Uthman himself (Allah be pleased with him), many of the Companions took an active role in giving Ali the post of Caliph. Yet at the moment the allegiance was given to him three of the great Companions rebelled against him declaring war against him, interpreting for themselves that righteousness lies in not accepting his Caliphate and that religion requires from them to fight him. Those Companions were: Talhah Ibn Ubaidullah, Az-Zubayr Ibn Al-'Awwam, and Mu'awiyah Ibn Abi Sufian. All three of them maintained that Ali has abandoned Uthman and did not fight those who rebelled against him nor did he support him. They said that he was able to turn people away from him, and that after he was given allegiance he did not take vengeance for him. Some of them entertained the conjecture that Ali was comfortable that Uthman was killed as some of Uthman's murderers found their way to his army and he did not object to this.

Yet each of those three Companions wished the Caliphate for himself and saw that it was his right, and that he is more capable than anyone else of filling its position and removing the seditions before they eat their way too deeply into the Islamic nation. Talhah and Az-Zubayr both showed pride in being one of the six whom Omar had elected to council about the affair of the Caliphate, and that they were among the first Muslims. Mu'awiyah also saw that he has a close kinship to Uthman and that he is more capable of taking vengeance for him, and that he is the worthiest of the affair after him.

Ali's disagreement with Talhah and Az-Zubayr ended when they were both killed in the Battle of Al-Jamal, then his army engaged that of Mu'awiyah in the valley of Siffin in the Levant. When failure began to find its way to the army of Mu'awiyah and defeat became eminent he used his well-known ruse which was to raise the Mushafs on the heads of spears to seek a truce. Ali's companions were divided about this affair: would they leave the fighting at the request of their opponents or should they beware of Mu'awiyah and his cunning and trickery? Ali at the end decided to the idea of judging according to the Quran to stop the bloodshed. This acceptance was the beginning of the schism within the lines of his forces and the disagreement among his followers. A group of them accepted the idea and called for it, but another group feared it and was displeased with it. Those who objected soon broke their allegiance for him, attacking him for his change of mind about fighting Mu'awiyah, while the ones who did not wish to fight awaited what would happen next.

Religious sectarianism appeared since that time we were discussing. The ones who broke off from Ali's army were called: "the Khawarij" [Those who exited] and those who remained about him at that time and later on refused to give allegiance to Mu'awiyah were called: "the Shiites". Besides those two sects was the majority of the Muslim who were not touched by the innovations of the Shiites or the Khawarij. Each sect had its own religious direction and effect on jurisprudence which is different from the others. Here are the details of this discussion.

The Khawarij

Ali's acceptance of the principle of judgment according to the Quran between himself and Mu'awiyah was the cause for some of his followers to break away from him as we have already pointed out. The opinion of those people was that this judgment is an error. They maintained that they entered into war with the full knowledge that righteousness is on their side and based on this there is no need to renew the knowledge of the ruling about this affair, submission to this judgment is based on doubt of the correctness of the ruling and doubt does not agree with faith. The word which they took as an emblem and a principle is: "there is no rule except for Allah".

They refused to return to Ali except on two conditions: if he admits that he had made error and had thus become an infidel due to the acceptance of the judgment and to repent. The other was to break all the terms of truce he had made with Mu'awiyah. Ali, however, refused to comply with any of these conditions, so whenever he would make a speech in the mosque or whenever they met him in an assembly they would object to everything he says through saying: "There is no rule except for Allah".

When they finally despaired from Ali adapting their view, they met in the house of the one of them and someone among them made a speech encouraging them to uphold their principle. He also encouraged them to leave Kufah which they called: "the town whose people are unjust". They left the city to a close village called: Harura' and since that time this sect was called: "Haruriyyah" after that village, and they were

also called: "the Khawarij" as they exited from the obedience of Ali. Although they themselves accepted this title but they said that they exited for the sake of Allah. They were also given the title: "*Al-Muhkimah*" [the ones who follow the judgment] as they upheld the statement: "there is no rule except for Allah".

They elected one of them as their leader, his name was Abdullah Ibn Wahb Ar-Rasibi. This was not enough for them so they initiated plans to get rid of both Ali and his enemies. They were able to assassinate Ali and their strength increased, they were further divided into two sects: one was in Iraq and the other was in the Arabian Peninsula. During the entirety of the Umayyad Caliphate they stood in the face of the state as rebels and warriors costing it great efforts and severe losses in terms of money and men. The state did not finally defeat them until they took some great lands from it such as Kirman, Persia, Al-Yamamah, Hadramut, At-Ta'if, and Yemen. The rule of the Umayyad ended without this sect becoming extinct. They occupied the attention of the Abbasids for some time as well, but their strength was not the same, their power declined and their strength weakened, and they lacked powerful leaders.

The Teachings of Al-Khawarij

The Khawarij were known to have certain teachings which are different from those of the others, the most famous of those are:

1-They said that each person who commits a sin is an infidel. This for them necessitates that Uthman (Allah be

pleased with him) is an infidel as he did not take the path of Abu Bakr and Omar. They also maintain that Ali, Mu'awiyah, Abu Musa, and Amr Ibn Al-'As are all infidels because they all shared the idea of judgment through the Quran although Allah's Book as they say is clear and needs no judgment, and because Mu'awiyah and his people who came after him are unjust and do not follow the guidance of the Quran.

2- They maintain that it is an obligation to rebel against the unjust leader. They do not use the means of *Tuqiyyah* (hiding one's true beliefs and showing their opposite out of fear from an opposing majority) which most of the Shiites employed. They do not consider their own weakness and the strength of the Imam as an excuse to prevent them from rebelling against him no matter how overwhelming were the odds against them.

3- They considered that the Caliphate should be for the one chosen by the Muslims even if was not from Quraish or an Arab at all. They did not believe that it belonged to a certain person or that it was confined to a certain bloodline as the Shiites said. If a person is selected he has no right to abdicate or to seek any outside ruling. If he deviates he must be deposed, if he does not leave the post on his own then he must be killed.

4- They considered that actions such as prayer, fasting, the *Zakat*, and others are all part of faith. The faith of the person is not realized through sheer belief of the heart and the affirmation of the tongue, all of these actions must be done in order for faith to exist in the person.

Not all four of these teachings were a subject of agreement between all the Khawarij. Only the last two of those four, namely that the Caliphate is not to be the exclusive right of a group of people and that actions are a part of faith were the most well-known and common of their teachings. The reason for their differences about these teachings was that the Khawarij were not one coherent body as one may think. Arabian Bedouin attitudes overcame them leading them to divide among themselves for any disagreement which may rise among them and they would divide into further sects each bearing a banner of its own.

There are among them those who did not see any need for electing a Caliph or appointing one in the first place. They said that the people should be left to themselves to act according to Allah's Book without a leader ruling over them. This view is what this sect came to mean through their common statement: "There is no rule except for Allah".

It is narrated that Imam Ali (Allah be pleased with him) commented on this statement of theirs by saying: It is a word of truth and falsehood is what is intended by it.

For it is true that there is no judgment or rule except for Allah, but those people also said that there is no leadership except for Allah. People, however, must have a leader no matter if he was good or evil so that the believer would work under his leadership, and the infidel would fear him, and so that Allah's rules would be applied through him, and taxes would be collected, and the enemies of the nation would be fought, and the paths would be made safe, and the weak

would be protected from the strong until the good are comforted or until people rest from the evil one.

This group later changed its attitude and most of its followers agreed on appointing a leader by way of absolute selection regardless of the person being from Quraish or not.

Shiites

The first idea held by Ali's supporters among the Companions and those who followed their opinion is that Ali was worthier of the Caliphate than any other, but their point of view did not exceed this limit. Having this opinion did not prevent them from giving allegiance to the Caliphs who attained the trust of the majority of the great Companions as they knew that the affair was based on counseling, and it needs a united nation and a gathered word.

But some of those supporters did not cease at the limit of the opinion and then accepting the principle of *Shura* between themselves. Their support evolved to take a greater form and a more dangerous formula from the original form which was closer to the concept of a political party rather than being a different religious sect. Those extreme supporters came up with the idea that the Caliphate is not subject to argumentation and allows no place for counseling and deliberation, the Prophet (Prayers of Allah and His Peace upon him) according to their opinion must appoint someone to succeed him. This successor (or Caliph in Arabic) who was appointed by the Prophet (Prayers of Allah and His Peace upon him) must be as infallible as the Prophet was, meaning that he does not commit a sin neither minor nor

capital [making all of his actions worthy of imitations as this view maintains]. They base this claims of their on traditions which they alone have transmitted and which were not known to the men of knowledge of any other sect, through these traditions they affirm these alleged appointment to Ali.

The implications of these allegations were dire, it meant - for them - that all who became Imams before Ali and all of those fought him for it or his offspring after him were usurpers as Ali was the only one to whom the qualities of the Imamate applies as some of them said, or he is the one who was appointed by name by the Messenger (Prayers of Allah and His Peace upon him) as others said. Ali's offspring are the ones who are appointed after him and not anyone else. This did not stop even there, extremism in this view led some to view Ali as the Godhead Himself, claiming that he knows the unseen and coming up with texts and interpretation of the Holy Quran which no one other than they accepts to support this claim.

And as the idea of reaching the judgment through the Quran was defiled by Mu'awiyah's trick and ended with his loss, and as Ali kept on attempting to defeat Mu'awiyah afterwards, and as nothing stopped him from claiming this right except being assassinated by one of the Khawarij, namely Abd Ar-Rahman Ibn Muljam, then his right to the Caliphate still stands, and he must have appointed this right to one of his sons as the Prophet (Prayers of Allah and His Peace upon him) appointed it to him. So the Shiites' aspiration to appoint one of his children after him was an aspiration to a religious right in their view, their strife to accomplish this was

would be protected from the strong until the good are comforted or until people rest from the evil one.

This group later changed its attitude and most of its followers agreed on appointing a leader by way of absolute selection regardless of the person being from Quraish or not.

Shiites

The first idea held by Ali's supporters among the Companions and those who followed their opinion is that Ali was worthier of the Caliphate than any other, but their point of view did not exceed this limit. Having this opinion did not prevent them from giving allegiance to the Caliphs who attained the trust of the majority of the great Companions as they knew that the affair was based on counseling, and it needs a united nation and a gathered word.

But some of those supporters did not cease at the limit of the opinion and then accepting the principle of *Shura* between themselves. Their support evolved to take a greater form and a more dangerous formula from the original form which was closer to the concept of a political party rather than being a different religious sect. Those extreme supporters came up with the idea that the Caliphate is not subject to argumentation and allows no place for counseling and deliberation, the Prophet (Prayers of Allah and His Peace upon him) according to their opinion must appoint someone to succeed him. This successor (or Caliph in Arabic) who was appointed by the Prophet (Prayers of Allah and His Peace upon him) must be as infallible as the Prophet was, meaning that he does not commit a sin neither minor nor

capital [making all of his actions worthy of imitations as this view maintains]. They base this claims of their on traditions which they alone have transmitted and which were not known to the men of knowledge of any other sect, through these traditions they affirm these alleged appointment to Ali.

The implications of these allegations were dire, it meant - for them - that all who became Imams before Ali and all of those fought him for it or his offspring after him were usurpers as Ali was the only one to whom the qualities of the Imamate applies as some of them said, or he is the one who was appointed by name by the Messenger (Prayers of Allah and His Peace upon him) as others said. Ali's offspring are the ones who are appointed after him and not anyone else. This did not stop even there, extremism in this view led some to view Ali as the Godhead Himself, claiming that he knows the unseen and coming up with texts and interpretation of the Holy Quran which no one other than they accepts to support this claim.

And as the idea of reaching the judgment through the Quran was defiled by Mu'awiyah's trick and ended with his loss, and as Ali kept on attempting to defeat Mu'awiyah afterwards, and as nothing stopped him from claiming this right except being assassinated by one of the Khawarij, namely Abd Ar-Rahman Ibn Muljam, then his right to the Caliphate still stands, and he must have appointed this right to one of his sons as the Prophet (Prayers of Allah and His Peace upon him) appointed it to him. So the Shiites' aspiration to appoint one of his children after him was an aspiration to a religious right in their view, their strife to accomplish this was

a strife to what religion necessitates for them as they maintain, so they found it inevitable to give allegiance to Al-Hassan Ibn Ali who was the eldest son of Ali from Fatimah (Allah be pleased with her).

But Al-Hassan, as it turned out, was not so much in love with the Imamate so as to buy it with the blood of the Muslims. Shortly after they gave him their allegiance he abdicated his right to Mu'awiyah and kept to his own affairs and thus the leadership Mu'awiyah became the Muslims' sole leader after an adversity which occupied his mind for long, killing many of his own soldiers in addition to many of Ali's soldiers. That year was called "the year of union" as all the people united around one Imam who is Mu'awiyah.

But the Shiites' view did not turn from its purpose, the abdication of Al-Hassan and Mu'awiyah's rule did not prevent them from it. So they remained grudgingly quiet at that time until another opportune moment would come. They kept a low profile until the rule of Yazid Ibn Mu'awiyah when they moved to rebellion once again asking Al-Hussein Ibn Ali to lead their rebellion against Yazid. But this move did not encounter any success, quite the opposite, its results were even more catastrophic than the previous one: Al-Hussein was killed in Karbala' with many members of his family. His family later encountered plenty of calamities at the hand of Yazid so that none remained of the offspring of Al-Hassan and Al-Hussein but the children who were too young to realize the aspirations of the Shiites and to lead them.

At that point the Shiites disagreed among themselves on who is to be the Imam. They became divided into sects which disagreed among themselves. One of these sects saw that after the death of Al-Hussein the Caliphate was transferred to his half-brother from his father's side, Muhammad Ibn Ali who is known as Ibn Al-Hanafiyyah, those people gave allegiance to him on that basis.

A second group limited the Caliphate to the offspring of Fatimah the daughter of the Messenger (Prayers of Allah and His Peace upon him). They said that after Al-Hussein got killed the Caliphate returned to being the right of the offspring of Al-Hassan as he is the eldest of his brothers, so no one but his children should be preferred by it, they await their maturity and they give allegiance to the best of them.

The third group also saw that it must be exclusively within the offspring of Fatimah, but since Al-Hassan gave up that right and abdicated his children no longer had the right to it, while Al-Hussein died for its sake so his offspring are its inheritors and they are more worthy of being waited for.

These three sects are the main sects from which all the other sects originated. Many other sects later sprang from these three sects and each of those sub-sects went through the path of calling to its Imam, becoming known by a name particular to it, having an attitude towards jurisprudence which is different from all the other sects. They are not all equally renowned or coherent in their views, there is a great variation between them which would lead us to discuss some of them and not others.

The Effect of Shi'ism in Islamic Jurisprudence

The Shiites' uniqueness in their trend, and their distrust of all those who disagree with them about Shi'ism had an effect of the way Islamic jurisprudence was treated by them. Even though jurisprudence for them depends of the Quran and the Sunnah, it differs from the jurisprudence of the people of the Sunnah from several aspects:

(First) The Shiites interpreted the Quran in a manner which agrees with their principles which we have already explained briefly. They do not accept the interpretation of anyone who belongs to any other sect nor on the Traditions which were not narrated by their Imams as we shall mention shortly.

(Second) They do not accept any Traditions from the Sunni sources no matter what its level of truth is and whether it relates to the origins or to the branches.

(Third) They do not accept consensus as one of the origins of legislation, nor do they accept the principle of deduction through analogy.

As for consensus, they do not accept it because taking it as an origin of legislation automatically implies that they endorse the views of the Companions and their followers whose view was the exact opposite of the Shiite view, so they do not consider this as acceptable sources in religion.

As for deduction through analogy, they do not accept it because it is an opinion. They maintain that religion cannot be

based on opinion, but it is to be taken solely from Allah, His Messenger, and their infallible Imams.

It is obvious that standing with this narrow circle made jurisprudence rigid so that it does not have space for issues which were based on the proofs others had. Also their rejection of many correct traditions and good opinions for the sole reason of not being from the Shiite source further limited their jurisprudence. Their disagreement about these origins led to their disagreement of many branches such as:

1-They maintained that pleasure marriage is permissible until the Day of the Resurrection, they even see it as a means of nearness to Allah, they even see it as a means of nearness to Allah finding proof of it in the literal meaning of Allah's saying: **"seeing that ye derive benefit from them, give them their dowers"** [Surah of the Women: 24].

﴿فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ﴾ [النساء: 24]

They even attribute to one of their Imams that he said: He who does not find our pleasure marriage permissible is not one of us.

For the majority of the Muslims the meaning of the Verse is understood as a reference to the ordinary marriage and the dowry prescribed for the woman in full. This understanding is based on the fact that the context is one which refers to marriage according to the well-known wedding contract after the discussion of certain types of women whom one is not permitted to marry, calling it "*Ajra*" [reward] does not indicate at all that it is a reward for the pleasure as the dowry was given the same name in other places such as Allah's saying:

“Wed them with the leave of their owners, and give them their dowers” [Surah of the Women: 25].

﴿فَانكِحُوهُنَّ بِاِذْنِ اٰهْلِهِنَّ وَاَنْوَهُنَّ اُجُورَهُنَّ﴾ [النساء: 25]

Meaning the dowry dedicated for them. And such as Allah’s saying: “O Prophet! We have made lawful to thee thy wives to whom thou hast paid their dowers” [Surah of the Clans: 50].

﴿يَتَايَهَا النَّبِيُّ اِنَّا اَحْلَلْنَا لَكَ اَزْوَاجَكَ الَّتِيْءَ اَتَيْتَ اُجُورَهُنَّ﴾ [الاحزاب: 50]

Meaning the dowries dedicated for them.

We have already seen that pleasure marriage was permissible at the beginning of Islam at the time of necessity, and that the last ruling the Prophet (Prayers of Allah and His Peace upon him) gave about this issue was prevention. Even Ibn Abbas who maintained that it was permissible ended up in returning to the view of the rest of the Companions which is prohibition. But all of this carries no weight for the Shiites.

2-The Shiites do not allow the Muslim to marry one of the women of the people of the Book, meaning the Christians and the Jews, taking the literal meaning of Allah’s saying: “**But hold not to the guardianship of unbelieving women**” [Surah of She that is to be Examined: 10].

﴿وَلَا تُنْسِكُوا بِعَصَمِ الْكُوفِرِ﴾ [الممتحنة: 10]

Most of the Muslims however understand the Verse to refer to unbelieving women other than the people of the Book. The proof of this is Allah’s saying: “**but chaste women among the People of the Book**” [Surah of the Table: 5].

﴿وَالْمُحْصَنَاتُ مِنَ الَّذِيْنَ اُوْتُوا الْكِتٰبَ﴾ [المائدة: 5]

3-The Shiites differ greatly than other Muslims in the affair of inheritance, so they do not permit women to inherit land and similar property, they allow them to inherit only through transmitted money.

They also maintain that Prophets are to be inherited, they say that the cousin who is born from the uncle who was born to the same father and mother to the deceased person’s father take precedence over the uncle who is born to the same father but not the same mother of the dead man’s father. They allot the entirety of one’s property to the relatives who are mentioned directly in the Quran and prevent the inheritance of the ones who are to inherit what is left of those shares without any estimation of what share exactly they have [this depends on how many people with shares inherit the dead man and what are their shares. So such a person may inherit most of the money and property at times, and may not inherit anything at all at others]. So for them if a brother and a daughter inherit a dead man the brother does not receive any inheritance, all the money and property go to the daughter.

Some of the researchers identified that this system of inheritance, in its aspects of inheritance from the Prophets and putting the cousin before the uncle has the purpose of limiting the Caliphate in Ali and not his uncle Al-Abbas and his offspring, so that it would be an inheritance for Ali from the Messenger (Prayers of Allah and His Peace upon him), and this is clear in their teachings. The Shiites apply their branches of jurisprudence from the Book, the Sunnah, and the

traditions of their Imams in this manner. Going into the details of all this would be too lengthy.

The Dispersion of the Muslim Men of Knowledge in the Countries

You have already seen that Omar forbade the great Companions to leave Medina except when there is a dire need for this, and that he had a great foresight in doing so as this made consensus between them possible which eliminated many of the things that they disagreed about at that time.

At the time of the Caliphate of Uthman and as the conquests became greater and greater, he permitted them to disperse and inhabit the conquered lands. So they dispersed in these lands and inhabited them as teachers, ones who recite the Quran, guards, and warriors. The lands were athirst for the aid of the teachings of the Islamic religion, the people of each land thronged around the Companions who came to them to seek their verdicts and judgments about things, to narrating the Traditions from them, and to learn from them.

It is also known that the Companions were not alike in all what they taught. Not everything learnt by one of them was learnt by all the others, and that the lands vary in their customs, patterns of living, and social and economic conditions. It also that became difficult if not impossible for all the men of knowledge who emerged in these different and distant lands to contact each other to exchange views on religious sciences as there were great distances and meager ways of communications between those lands.

The result of this was that the people of every country clung to the verdicts and views and Traditions of their men of knowledge. They relied on them and on the way with which they performed their actions and the manner in which their judges issued their verdicts, for they have seen their states and have established their manner of living and entrusted them.

The Egyptians had *Fatwas* of their own as did the people of Kufah, the people of Basra, the *Maghrebis* [the people of the west which is the name given to the region from Tunisia to Mauritania and which included Muslim Spain at the time], the people of Medina, and the people of Mecca. The people of Medina, for instance, followed the *Fatwas* [verdicts and judgments] of Abdullah Ibn Omar from the Companions and of Sa'id Ibn Al-Musayyib and 'Urwah Ibn Az-Zubayr from the followers of the Companions. The people of Mecca followed the *Fatwas* of Abdullah Ibn Abbas and the followers who were taught by him such as Mujahid Ibn Jubair and 'Ata' Ibn Abu Rabah and Tawus Ibn Kissan. The people of Kufah relied on the *Fatwas* of Abdullah Ibn Mas'ud and the followers who learned from him such as 'Alqamah An-Nakh'i and Al-Aswad Ibn Yazid and Masrouq. The people of Basra relied on the *Fatwas* of Abu Musa Al-Ash'ari and Anass Ibn Malik and Al-Hassan Al-Basri and Muhammad Ibn Sireen. The people of the Levant relied upon the *Fatwas* of Mu'ath Ibn Jabal and Ubadah Ibn As-Samit and Abu Ad-Darda' and the followers who have learned from them such as Abu Idriss Al-Khawlani, Makhoul Ad-Dimashqi, Omar Ibn Abd Al-Aziz, and Raja' Ibn Hayat. The people of Egypt took the *Fatwas* of Abdullah Ibn Amr Ibn Al-'As.

The Prevalence of the Narration of Traditions

We have already seen that Abu Bakr disliked the Companions to narrate too many Traditions, and that Omar even threatened those of them who did so with punishments. This was out of fear that false traditions would be narrated about the Messenger of Allah (Prayers of Allah and His Peace upon him) and out of fear that this may prevent them from being occupied with the Quran.

After the lands were conquered and the Companions dispersed in them people had new and unprecedented things which they needed to ask about. The need became dire for these Companions to tell the people the knowledge they have and to give *Fatwas* using the Sunnah as it was the most comprehensive and important source of jurisprudence as it handled the details of people's lives. Those Companions did not, on an individual level, encompass all of the things the Prophet (Prayers of Allah and His Peace upon him) said or did. Each of them accompanied the Prophet at certain times but not at others, and at the times the one of them did not have this companionship he missed a form of knowledge which was carried by someone else. This is why each of them carried something and missed other things, there were also among them those who narrated many Traditions and those who narrated many Traditions.

The scholars have mentioned six Companions who narrated many Traditions, meaning that they narrated more than one thousand Traditions, those are: Abu Huraira, Jabir

Al-Ansari, Abdullah Ibn Omar, Abdullah Ibn Abbas, Anass Ibn Malik, and Aisha the daughter of Abu Bakr As-Siddiq. The reasons behind the great number of Traditions they narrated are as follows:

(First) The long age they were blessed with which was coupled with the dire need the people had to extract the knowledge they had.

(Second) The long or close and frequent companionship they had with the Prophet (Prayers of Allah and His Peace upon him) as is the case with Anass and Aisha and Abu Huraira.

(Third) Close following of the traces of the Prophet (Prayers of Allah and His Peace upon him) and learning the Traditions taught by him as is the case with Ibn Abbas and Ibn Omar and Abu Huraira. They used to seek the Traditions of the Messenger wherever they are and collect them. So not all the things they related were directly heard by them from the Prophet (Prayers of Allah and His Peace upon him), but they were collected from the greater Companions.

So it is no wonder then that many of the greater Companions who died in the early stages of Islam did not narrate many Traditions.

One of the results of the combined factors of the dispersion of the Companions and the variation of the forms of knowledge each of them received and that each country was had its own men of knowledge and transmitters of the Traditions was that some lands knew of Traditions which others did not know about. This later led to the variation in the *Fatwas* as we have explained earlier. In a later stage, the

followers of the Companions felt that the other lands contained forms of knowledge which they did not have, so they travelled widely and made great efforts to affirm the connections based on knowledge between the countries. This had an undeniable effect in decreasing the aspects of disagreement.

The Appearance of Falsifiers

The fact that the Traditions were not written down and that the Companions relied solely on memory, in addition to the difficulty of encompassing and recording all what the Messenger of Allah (Prayers of Allah and His Peace upon him) said or did in the twenty three years period between the beginning of the revelation until his death gave the enemies of Islam among the Jews, the Persians, and the Byzantines a loophole from which they would introduce into religion certain things which would corrupt it. This had the purpose of turning the Islamic state upside down and claiming back the power they lost over the region.

As the doors of introducing new things to the Quran itself were closed to them, they entered to the Muslims through the wider door of the Sunnah. They formed societies whose purpose was to falsify traditions about Anthropomorphism, denying the Divinity Its Attributes, and to prohibit the permissible and permit the prohibited. These falsifications became disturbingly and terribly prevalent in a manner which threatened the Islamic unity itself allowing for the appearance of the religious sects.

The Shiites permitted themselves to falsify traditions which support their own view, and the causes which drove people to go further in the falsification of traditions even increased as you will soon see.

What shows you the seriousness of this situation at that phase is that Ibn Abbas, who is renowned for his desire to collect the Traditions and his meticulous care in collecting them said, as Muslim relates: "We used to narrate Traditions about the Messenger of Allah (Prayers of Allah and His Peace upon him) at a time when no one who lie about him. Now that the people have gone through all means possible for their ends we have given up narrating Traditions about him".

In another Tradition it is said that Bashir Al-'Adawi came to Ibn Abbas and began to narrate Traditions and say: "The Messenger of Allah said". Ibn Abbas did not pay any attention to his speech or even look at him. Bashir said: O Ibn Abbas, why do I see that you pay no heed to what I say? I tell you that the Messenger of Allah said and you do not listen? Ibn Abbas said: There was a time when we would pay attention, when we hear a man say: The Messenger of Allah said, we would give him our full attention, seeing no one but him and hearing no one but him. But as people have gone through all the easy and difficult means for their ends, we only take what we know from the people. Hammad Ibn Zayd said: The heretics (*Az-Zanadiqah*) have falsified four thousand traditions attributing them to the Messenger in order to corrupt the religion of the people. Ibn Luhay'ah said: I heard an old man from the Khawarij who repented say: These Traditions are religion itself, so pay heed on whom you take

your religion from, for we used to say about everything we like about religion that it is a tradition.

So if this was the way of the Khawarij who used to consider lying as infidelity itself, so how about the Shiites? Jabir Ibn Yazid Al-Ja'fi was one of them, he used to claim that he had fifty thousand or even seventy thousand traditions which he claimed to narrate from Muhammad Al-Baqir Ibn Ali Ibn Al-Hussein Ibn Ali Ibn Abi Taleb.

People took falsification so lightly that certain people attributed to the Prophet (Prayers of Allah and His Peace upon him) everything which has truth in it even if it was from the words of the philosophers and the men of wisdom, Khalid Ibn Yazid said: I heard Muhammad Ibn Sa'id Ad-Dimashqi say: If a statement is good I do not find it wrong to attribute a chain of relation to it.

Abu Ja'afar Al-Hashimi Ath-Thayni used to concoct words of truth into traditions. Certain people found it permissible to falsify traditions regarding desire in Paradise and fear from Hellfire. An-Nawawi said: Certain ignoramuses attired with the appearance of the ascetics followed this way of falsification to encourage people to do good as they falsely claimed.

What we have mentioned explains the causes which drove certain people to falsify traditions, we summarize them as such:

1-Religious Enmity: We have already seen that Abdullah Ibn Saba', who was Jewish, and the ones like him became Muslims only in appearance. They hid certain lowly purposes behind their claim of Shi'ism using the excuse of showing the

love of the Prophetic household to introduce into Islam beliefs which do not belong to it with the purpose of extinguishing Allah's Light. But Allah refused but to complete His Light even if the infidels hate this.

2-Sectarian Bigotry: Some of the Islamic religious sects were driven by their extremism to support their views through the falsification of certain Traditions which attest to the correctness of these views. You have already seen that the Shiites and the Khawarij did this, Al-Hakim Abu Abdullah said: Muhammad Ibn Al-Qassim At-Ta'ikani was one of the heads of Murji'ites and he used to falsify traditions which attest to their creed.

3-The following of certain people who had a certain level of knowledge to the passions of princes and Caliphs: So they would falsify for them what they would like to hear. An example of this is what was narrated about Ghiath Ibn Ibrahim that he entered into the presence of the Caliph Al-Mahdi Ibn Al-Mansur. The latter used to like playing with doves, so he narrated a tradition: "There is no races except in horses or arrows or wings". Al-Mahdi ordered that he is to be paid ten thousand dirhams, when he went out he said: I bear witness that your back is the back of a falsifier of the Traditions of the Messenger of Allah, the Messenger of Allah (Prayers of Allah and His Peace upon him) did not say: 'Wing', he added this bit just to draw near to us.

4-The indulgence of certain people in falsifying traditions about virtues and the merits of Paradise and the terribleness of Hell: Such as what is narrated from Abu 'Ismah Nuh Ibn Abi Mariam that he falsified certain

Traditions about the merits of the Quran's Surahs one by one under the broad title of "He who reads the Surah of so and so would receive the reward of so and so". He narrated this from 'Ikrimah from Ibn Abbas, and at other times from Ubayy Ibn Ka'b. When he was asked: Where did you get these traditions from? He said: When I saw that people occupy themselves with the jurisprudence of Abu Hanifah and the conquests narrated by Muhammad Ibn Is-haq, and have turned away from learning the Quran, so I falsified these traditions seeking Allah's pleasure through this!

5-The fact that certain people would accept nothing but the Book and the Sunnah: which drove the falsifiers to attribute certain statements made by the Companions and others in addition to the Arab proverbs and the words of the men of wisdom and attribute all of them to the Prophet (Prayers of Allah and His Peace upon him).

The falsifications were not confined to inventing the text itself, certain of them would place for a weak text a good and renowned chain of relation. Others would turn about those chains or add to them on purpose so as to appear more distinguished than others or to remove any belief the people may have about him that he is ignorant.

The Rising of the Men of Knowledge to Resist the Falsifiers

The appearance of the falsifiers encouraged men of knowledge and sharpened their resolve to resist them in order to defend the law and preserve the religion.

The great Imams stood up to search into these traditions to cast away the false ones and to realize the truth, that was the time when the religious science of "*Jarh Wa Ta'dil*" [classifying the people who narrate Traditions into ones who are trustworthy or flawed] appeared. The Imams made a great effort so as to establish this science on solid basis, they followed the falsifiers, scandalizing what those falsifiers did, warning from each of them by name, and rejected all things narrated by those people. They clarified also the traditions those falsifiers falsely attributed to the Messenger of Allah (Prayers of Allah and His Peace upon him) and the purposes they had for doing so until Allah delivered the law from this conspiracy.

Discussion of "*Jarh Wa Ta'dil*" began at the time of the younger Companions. Certain words by Abdullah Ibn Abbas, 'Ubadah Ibn As-Samit, and Anass were narrated to that effect, then it increased at the time of the followers of the Companions such as Ash-Shu'abi, Ibn Sireen, Al-Hassan Al-Basri, and Sa'id Ibn Al-Musayyib. The discussion of it continued.

The Effect of Falsification on Legislation

It is clear for us that even if the falsifiers did not have their way with religion since the men of knowledge stood up to them and resisted their endeavors. But those evil men placed plenty of thorns on the path of the jurists seeking to derive

Traditions about the merits of the Quran's Surahs one by one under the broad title of "He who reads the Surah of so and so would receive the reward of so and so". He narrated this from 'Ikrimah from Ibn Abbas, and at other times from Ubayy Ibn Ka'b. When he was asked: Where did you get these traditions from? He said: When I saw that people occupy themselves with the jurisprudence of Abu Hanifah and the conquests narrated by Muhammad Ibn Is-haq, and have turned away from learning the Quran, so I falsified these traditions seeking Allah's pleasure through this!

5-The fact that certain people would accept nothing but the Book and the Sunnah: which drove the falsifiers to attribute certain statements made by the Companions and others in addition to the Arab proverbs and the words of the men of wisdom and attribute all of them to the Prophet (Prayers of Allah and His Peace upon him).

The falsifications were not confined to inventing the text itself, certain of them would place for a weak text a good and renowned chain of relation. Others would turn about those chains or add to them on purpose so as to appear more distinguished than others or to remove any belief the people may have about him that he is ignorant.

The Rising of the Men of Knowledge to Resist the Falsifiers

The appearance of the falsifiers encouraged men of knowledge and sharpened their resolve to resist them in order to defend the law and preserve the religion.

The great Imams stood up to search into these traditions to cast away the false ones and to realize the truth, that was the time when the religious science of "*Jarh Wa Ta'dil*" [classifying the people who narrate Traditions into ones who are trustworthy or flawed] appeared. The Imams made a great effort so as to establish this science on solid basis, they followed the falsifiers, scandalizing what those falsifiers did, warning from each of them by name, and rejected all things narrated by those people. They clarified also the traditions those falsifiers falsely attributed to the Messenger of Allah (Prayers of Allah and His Peace upon him) and the purposes they had for doing so until Allah delivered the law from this conspiracy.

Discussion of "*Jarh Wa Ta'dil*" began at the time of the younger Companions. Certain words by Abdullah Ibn Abbas, 'Ubadah Ibn As-Samit, and Anass were narrated to that effect, then it increased at the time of the followers of the Companions such as Ash-Shu'abi, Ibn Sireen, Al-Hassan Al-Basri, and Sa'id Ibn Al-Musayyib. The discussion of it continued.

The Effect of Falsification on Legislation

It is clear for us that even if the falsifiers did not have their way with religion since the men of knowledge stood up to them and resisted their endeavors. But those evil men placed plenty of thorns on the path of the jurists seeking to derive

judgments and verdicts making their path filled with obstacles and the process of producing these verdicts slow and difficult.

For in the previous stages the jurist was not prevented by anything, after looking into the Prophetic Tradition, from looking into it and deriving from it whilst being confident and at ease with the truthfulness of the Tradition. He now had to search, before anything else, into the Tradition itself both in its text and its chain of narration to make sure that both are correct. Only after doubt in the Tradition is removed may he look into it and derive so that he would find what he seeks after a great effort and a long strife. If Allah (Exalted is He) did not place people to protect the Sunnah and delve into studying it then the diligent jurists who later formed the schools of jurisprudence would not have been able to produce the great heritage they provided us with.

The Appearance of the Non-Arab Learned Men⁽¹⁾

At the time of the guided caliphs most of the bearers of knowledge were Arabs as the appearance and fame in verdicts was for the Companions who were Arabs. When Allah conquered Egypt, the Levant and Iraq for the Muslims the Companions were dispersed in the conquered lands and began to spread the teachings of religion in them. Both Arabs and foreigners received this knowledge from them, this was the

(1) This section is not part of the syllabus and it is mentioned for the sake of benefit only.

time when the non-Arab Muslims (*Al-Mawali*) and their sons appeared in the movement of the development of religious knowledge.

The people of those lands learned and understood the sciences of religion using the learning and writing skills they were blessed with due to their ancient civilizations. What aided their appearance was that Arabs, who became the ruling class, became too occupied with the affairs of government to go deep into the affairs of knowledge in contrast to the non-Arabs who were the ruled class and who had nothing to prevent them from learning this religious knowledge and becoming well-versed in it.

There were among the Companions who are known for their knowledge and judgment those who took friends and servants and even slaves from those non-Arabs. Since those accompanied their masters in private and in public and in their residence and their journeys they were more capable than others to know their jurisprudence and what they said. Among those were Nafi' the slave of Ibn Omar and 'Ikrimah the slave of Ibn Abbas. Abdullah Ibn Abbas died while 'Ikrimah was still a slave, his son Ali Ibn Abdullah Ibn Abbas sold him to Khalid Ibn Yazid Ibn Mu'awiyah for four thousand Dinars. 'Ikrimah came to his lord Ali and said to him: This is not a good deal for you, you have sold your father's knowledge for four thousand Dinars. So Ali asked Khalid to abolish the transaction, Khalid accepted. After that Ali set 'Ikrimah free.

Generally speaking, the non-Arab Muslims shared the conquests and knowledge with the Arabs at that age. In fact

they had the majority of men of knowledge, so in Medina there were Suleiman Ibn Yassar, Nafi' the slave of Ibn Omar who was originally and Dailamite, Rabi'ah Ar-Ra'y who was the Imam Malek's Sheikh and his father Farroukh, and they were both non-Arab Muslims.

There were among the men of knowledge of Mecca Mujahid Ibn Jubair who was the freed slave of the Bani Makhzoum and 'Ikrimah Ibn Abbas and 'Ata' Ibn Abi Rabah the freed slave of Bani Fihr, and Abu Az-Zubayr Muhammad Ibn Tadrus the freed slave of Hakim Ibn Huzam who was one of the most learnt of people about the Traditions.

Also from the men of knowledge of Kufah there was Sa'id Ibn Jubair the freed slave of Bani Walibah.

In Basra there was Al-Hassan Ibn Yassar who was the freed slave of Zayd Ibn Thabit, in addition to Muhammad Ibn Sireen and Al-Hassan Al-Basri whose fathers were enslaved in Meesan.

The most famous of the people of the Levant was Makhoul Ibn Abdullah who was Al-Awza'i's teacher.

In Egypt there were Yazid Ibn Habib the freed slave of Al-Azd and who was the *Mufti* [the one to produce verdicts in the general affairs of religion, the legislator through Islamic law] from whom Al-Laith Ibn Sa'd later learned. Yazid was a Berber in origin, his father was from the people of Danqalah.

In addition to those men there was at that age a number of famous Arab men of knowledge such as Sa'id Ibn Al-Musayyib, 'Alqamah Ibn Qayss An-Nakh'i, Shurayh Al-Kindi, Masrouq, Ibrahim An-Nakh'i, and others.

There were certain cities and lands where the majority of the people were Arabs such as Kufah and Medina, and others where the non-Arabs were the majority such as Basra.

The Division of the Men of Knowledge to People of Opinion (*Ra'y*) and People of Traditions (*Hadith*)

You have already seen that diligence at the time of the Companions turned about searching into the judgments through the affairs which take place in the Book then in the Sunnah then in using one's opinion and deduction if there is no clear text about the affair in the Book or the Sunnah.

The *Muftis* at that age had various ways. Some of them would expand in the matter of opinions recognizing the general interests taken into account in legislation and building the rules on them such as Omar and Abdullah Ibn Mas'ud, others would be driven by piety and caution to stand at the limitations of the texts and upholding the traditions such as Al-Abbas, Az-Zubayr, Abdullah Ibn Omar Ibn Al-Khattab and Abdullah Ibn Amr Ibn Al-'As.

When the Companions dispersed in the lands as judges, *Muftis*, and teachers they transmitted their knowledge and ways in research and derivation to the ones who carried the banner of knowledge after them who were the Followers (*At-Tabi'in*) and the Followers of the Followers (*Tabi'i At-Tabi'in*).

The Prevalence of the School of the Traditions and Its Causes and Characteristics

There were among the men of knowledge of that age those who stood with the texts and traditions without moving from them. they only used opinions and points of view in the cases of extreme necessity, those were the people of Hijaz with Sa'id Ibn Al-Musayyib at their head, for he and his companions maintained that the people of Mecca and Medina were the most constant in preserving traditions and jurisprudence and he dedicated himself to learning the traditions which they have. He collected the *Fatwas* of Abu Bakr, Omar and Uthman and all the judgments made by them, in addition to the *Fatwas* of Ali prior to his Caliphate, and Aisha, Ibn Abbas, Ibn Omar, Zayd Ibn Thabit, and Abu Huraira in addition to the cases which the judges of Medina had to decide. He learned plenty of those *Fatwas* maintaining that all this would make it needless to use opinion.

The people of Hijaz stood with the texts due to three factors:

1-The influence of the methods of their Sheikhs such as Abdullah Ibn Omar in their attachment to the traditions and their caution in using opinions.

2-The plentitude of the traditions they had at hand in addition to the meagerness of the new occurrences and cases which did not take place at the time of the Companions.

3-The Bedouin nature of the society of Hijaz. So whenever they would consult the Quran then the Sunnah then the traditions of the Companions, if no ruling is found after a

great effort in all of these - and this was a rare case - they would use their opinion, and perhaps they would not produce a verdict in the first place as it is reported that a man asked Salem Ibn Abdullah Ibn Omar about something and he said: I did not hear anything about this issue. The man said: May Allah make all your states good, tell me about your own opinion about this. Salem said: No. The man said: I will be content with your opinion. Salem said: Maybe I will tell you my opinion and then you will go and I will see another opinion as more fitting and then I would not be able to find you.

Here you would also know that they disliked asking about affairs which did not take place as it may lead them to derive rulings and verdicts through opinion which they disliked. Their reliance was on traditions and effects even if they were not well-known.

The Prevalence of the School of Opinion in Iraq, Its Causes and Its Characteristics

There was another group who did not agree with them and which found their approach flawed. Those were the people of Iraq with Ibrahim An-Nakh'i at their head.

The view of this group of jurists is that the judgments of the law have general and universal meanings whose basis is the best interest of the servants. Those judgments were based on firm principles and causes which regulate these judgments. They sought the causes and wisdom for which the judgments and verdicts were legislated making rulings and verdicts turn

with these causes and wisdoms in existence and non-existence. They would at times reject certain traditions if they disagree with those causes especially if they found other traditions which indicate the opposite. As for the first school, they sought texts more than they sought causes except when they found no text at all.

The prevalence of the school of opinion in Iraq originates in three factors:

1-The influence of the method of their first teacher, Abdullah Ibn Mas'ud who was one of the Companions who followed Omar's way in using opinion. He is the one who said: If people go through a valley and its pathways and Omar went through a different valley and its pathways I would follow Omar's valley and its pathways. Many students reached mastery at his hands the noblest of whom was 'Alqamah Ibn Qayss An-Nakh'i who in his turn taught Ibrahim An-Nakh'i, the bearer of the banner of the school of opinion and the founder of their path in that stage.

2-That they saw that Iraq was the land most blessed of counties with Companions as Kufah and Basra were the bases of the Islamic armies from which all the eastern lands, beginning with Khurassan and beyond, were conquered. Kufah was the capital of the Caliphate at the time of Ali and before him it housed Ibn Mas'ud, Sa'd Ibn Abi Waqqass, Ammar Ibn Yasser, Abu Musa Al-Ash'ari, Al-Mughirah Ibn Shu'bah, Anass Ibn Malik, Huthaifah Ibn Al-Yaman, Umrans Ibn Hussayn, and many of the Companions who took Ali's side and were with him such as Ibn Abbas. Those were the bearers of Traditions and the ones who transmitted it so they

found the Traditions which were related at their lands sufficient. Iraq was also the base of the Shiites and the headquarters of the Khawarij, and the house of sedition. So falsification and putting lies to the mouth of the Messenger of Allah (Prayers of Allah and His Peace upon him) became commonplace in it. So to accept a tradition the men of knowledge in Iraq devised certain conditions which only very few traditions would be acceptable. Add to this the fact that they found what was narrated by Companions who resided in Iraq sufficient and you would know that they had a limited number of traditions which they were able to consider reliable, so there was no escape from using opinions.

3-The issues which needed rulings and verdicts in Iraq far exceeded those which did in Hijaz due to the Bedouin nature of the Hijaz society and the more urban nature of the Iraqi society. Add to this the fewness of reliable traditions they had which made the usage of opinion inevitable.

Its Characteristics

1-The plentitude of the branches of the branches which they had even if the cases they discussed were imaginary and would seldom take place.

2-The fewness of those who would narrate traditions among them as they made conditions for this which only the very few would be able to use.

The competition between the two countries became increasingly tough and each of the two schools found the approach of the other flawed even if there were certain Hijazi men of knowledge who tended to accept the use of opinion such as Rabi'ah Ibn Abd Ar-Rahman who was Imam Malek's

Sheikh and this is why he was called Rabi'ah Ar-Ra'y (Rabi'ah of the opinion). There were also among the Iraqi men of knowledge those who disliked opinions and cast it away to use the way of the people of the Traditions such as Amer Ibn Shurahil who is also known as Ash-Shu'abi for he used to say: If what those jurists told you that this is something they took from the Companions of the Messenger of Allah (Prayers of Allah and His Peace upon him) then take it, and if it was their own opinion then cast it into the toilet.

So it was the destiny of the nation's majority who were not touched by the innovations of the Khawarij and the Shiites to be divided into two main groups. One was the people of Traditions and the other was the people of opinions. The fact remains however that anyone who puts his own opinion before the correct and affirmed Sunnah is not one of the people of opinion, as Imam Ash-Shafi'i said: All the Muslims agree that he who has a Sunnah of the Messenger of Allah (Prayers of Allah and His Peace upon him) firmly proven to be correct to him then he should not leave it for anyone's opinion. What is believed to be a disagreement with the Sunnah is due to the fact that no Tradition about it has reached them, or that it reached them and they did not trust it due to the weakness of the one who narrated it, or due to the presence of a flaw which others do not see as a flaw, or because they had another Tradition proven to them which contradicts what others have used.

I will mention two examples of their debates so that the point of view of each of the two groups would be clear in diligence, and so that you would know that all of them stand

at the limits of the Sunnah once they trust its relation and narration.

1-Malek narrated in Al-Muwatta' that Rabi'ah said: I asked Sa'id Ibn Al-Musayyib on the indemnity for a woman's finger, he said: Ten camels. I asked him: The two fingers? He said: Twenty. I asked: The three fingers? He said: Thirty? I said: The four fingers? He said: Twenty camel. I said: When her injury became greater and her calamity direr then her indemnity decreased? Sa'id said: Are you an Iraqi? Rabi'ah said: No, but either a man of knowledge who wishes to confirm what he knows or one of ignorance who wishes to learn. Sa'id said: This is the Sunnah. Sa'id actually gave his verdict based on the apparent aspect of what An-Nasa'i narrated from Amr Ibn Shu'aib from his father from his grandfather from the Prophet (Prayers of Allah and His Peace upon him) that he said: "The indemnity of the woman is like that of a man until she reached one third of the restitution of her death". As the indemnity for four fingers is more than the third of the restitution then it must be halved even if it does not agree with the intellect as the intellect has no role in the affair of legislation in which there is a text. This is why he considered Rabi'ah mistaken with the same mistake they used to accuse the Iraqis of having in making the intellect judge the texts.

2-Abu Hanifah and Al-Awza'i met in Mecca. Al-Awza'i said to Abu Hanifah: Why don't you raise your hands before kneeling in prayers and rising from it? Abu Hanifah said: Because no Tradition from the Messenger of Allah (Prayers of Allah and His Peace upon him) was affirmed in this

respect. Al-Awza'i said: How can this be so while Az-Zuhri narrated from Salem from his father from the Messenger of Allah (Prayers of Allah and His Peace upon him) that he would raise his hands at the beginning of the prayer, before kneeling and after it? Abu Hanifah said: Hammad narrated to us from Ibrahim from 'Alqamah and Al-Aswad from Ibn Mas'ud that the Messenger of Allah (Prayers of Allah and His Peace upon him) would not raise his hand except at the beginning of the prayer and then would not do that again. Al-Awza'i said: Would I tell you from Az-Zuhri from Salem from his father and you would say Hammad told me from Ibrahim? Abu Hanifah said: Hammad was more knowledgeable of jurisprudence than Az-Zuhri and 'Alqamah is not less in it than Ibn Omar even if Ibn Omar has the merit of companionship. Al-Aswad has many virtues and Abdullah Ibn Mas'ud is Abdullah Ibn Mas'ud. Al-Awza'i remained silent after this.

So you see the trust each of them had in the ones who narrate Traditions in their own country as a result of the fact that they accompanied them and were aware of their states.

That age passed without the Sunnah or jurisprudence being written down. Writing down began in the next age. The Followers of the Companions were the ones most famous for producing *Fatwas* at that time as the Companions became rare, the grand ones among them died and the rest were occupied with their own posts.

The most famous of the *Muftis* of that age are: Sa'id Ibn Al-Musayyib, Qubayssah Ibn Thu'ayb, Nafi' the freed slave of Ibn Omar, 'Ikrimah the freed slave of Ibn Abbas, Ata' Ibn

Abi Rabah, Tawus Ibn Kissan, Al-Hassan Al-Basri, Muhammad Ibn Sireen, Al-Aswad Ibn Yazid, Masrouq Ibn Al-A'raj, Ibrahim An-Nakh'i, 'Alqamah An-Nakh'i, Ash-Shu'abi, Shurayh Ibn Jabir, Makhoul Ad-Dimashqi, and Abu Idriss Al-Khawlani. Let us now mention the biographies of some of them.

(First) Among the People of Medina

1- Sa'id Ibn Al-Musayyib

He is Abu Muhammad Sa'id Ibn Al-Musayyib Ibn Hazan Al-Qurashi Al-Makhzoumi Al-Madani. His father and grandfather are both Companions of the Prophet (Prayers of Allah and His Peace upon him) who became Muslims at the day of the conquest of Mecca. He was born two years after the beginning of the Caliphate of Omar and when he reached maturity he showed great care in knowing about Omar and his affairs until he became the one most knowledgeable of his rulings, judgments, and verdicts, he was even called: the narrator of Omar. He also learned the Traditions narrated by Abu Huraira whose daughter he married in addition no narrating from Uthman, Ali, Sa'd Ibn Abi Waqqass and the other famous Companions.

Generally speaking, he was one of the masters of the Followers of the Companions in jurisprudence, religion, piety, worship, and merit until he was called: The jurist of the jurists. When a verdict is sought about something it would move from one man of knowledge to another until it would reach him and he would have the answer for it. He was called:

The daring one as he dared produce *Fatwas* others did not dare produce based on a vast knowledge and experience in similar cases.

He did not accept the prizes of the rulers, when he was called to take more than thirty thousand Dirhams he said: I have no need for them nor for the sons of Marwan [Ibn Al-Hakam whose branch of the Umayyads ruled for over sixty years].

The Caliph Abd Al-Malik Ibn Marwan asked for his daughter's hand to marry her to his son, Al-Walid, but he refused and he gave her to Abu Wada'ah for a dowry as little as two or three Dirhams. Abd Al-Malik Ibn Marwan ordered him to give allegiance to his successor Al-Walid and to Suleiman after him. He refused saying: The Messenger of Allah (Prayers of Allah and His Peace upon him) prohibited giving two allegiances. So he was beaten and taken about the markets and placed before the sword whilst he persevered patiently in his rejection seeking Allah's reward for this.

Al-Jahith said in his treatise on commerce: Was there one among the Followers of the Companions more knowledgeable or nobler than Sa'id Ibn Al-Musayyib? Yet he was a merchant who would buy and sell, and he is the one who had said: I have known every ruling issuing from the Messenger of Allah (Prayers of Allah and His Peace upon him), Abu Bakr, Omar, Uthman, and Ali.

He used to be the most capable of people to interpret dreams and he also had the best knowledge of the family trees of Quraish, he would produce *Fatwas* while the Companions were still alive. He had knowledge of the pre-Islamic and

Islamic history and had such qualities as deep piety, extreme efforts in devotion and worship, and commandment of goodness even in the face of Caliphs and the tyrants.

He performed the pilgrimage forty times and did not fail to be in the first line of the people who pray for fifty years. He died in the year 94 A.H. in the Caliphate of Al-Walid in a year which was called: The year of the jurists due to the fact that many of them died in that year. One of his more bizarre *Fatwas* (Allah be pleased with him) is that he ruled that the woman who was divorced thrice would be permitted to marry her divorcee again if she makes a contract of marriage with someone else and then gets divorced from the other man without having sexual intercourse with him.

2- Nafi' the Freed Slave of Abdullah Ibn Omar Ibn Al-Khattab

He is Abu Abdullah Al-Madani. His master bought him from the people who were enslaved among the Dailamites so he taught him and refined him. He heard from him and from Abu Huraira and Um Salamah and others. Salih Ibn Kissan, Az-Zuhri, Al-Awza'i, Malik Ibn Anass and many others took knowledge from him.

He was one of the notable jurists of Medina and one of its traditionalists. Omar Ibn Abd Al-Aziz sent him to Egypt to teach its people the Sunnah. He is one of the men of the golden chain of narration about which Abu Dawud said: The most correct of chains of narration is Malik from Nafi' from Ibn Omar. Malik said: When I heard Nafi' speak from Ibn Omar, I used not to care if I did not hear it from someone

else. Ibn Sa'd said: He was trustworthy and he narrated many Traditions.

He had a great favor and great station with Ibn Omar, it suffices for you to hear what he said: Allah has blessed me with Nafi'.

Nafi' said: Abdullah Ibn Ja'afar offered Ibn Omar twelve thousand Dinars to buy me, he refused and set me free.

His learning and meticulousness were so great that he would not narrate a Tradition if it is grammatically incorrect and even if others sought it from him.

Al-Halimi said: Nafi' is one of the Imams of the Followers of the Companions in Medina, he is an Imam of knowledge whose merit is agreed upon, his narrations are correct. There are those who place him before Salem [Ibn Abdullah Ibn Omar] and there are those who say that they have the same level, no mistake is known in all what he narrated. He died in the year 117 A.H., others said he died in another year.

(Second) Among the People of Kufah

1- 'Alqamah Ibn Qayss An-Nakh'i

His is 'Alqamah Ibn Qayss Ibn Malik An-Nakh'i Al-Kufi. He was born in the lifetime of the Messenger of Allah (Prayers of Allah and His Peace upon him) and he narrated from Omar, Uthman, Ali, and Ibn Mas'ud. For this reason he was known as 'Alqamah Ar-Rawi (the narrator) as he narrated many Traditions. Abdullah Ibn Mas'ud said: Everything which I recite and know is known and recited by 'Alqamah. Qabuss Ibn Abi Thibian said: I said to my father:

For what reason do we leave the Companions and go to 'Alqamah? He said: I have seen people among the Companions of the Messenger of Allah (Prayers of Allah and His Peace upon him) who would ask 'Alqamah and seek his ruling. Ath-Thahabi said: He was a good jurist, an Imam, his voice in reciting the Quran was beautiful, he was firm in what he narrates, he was a man of goodness and piety, he was similar to Ibn Mas'ud in his guidance and indication and appearance and merit.

He died in the year 61 A.H., it was also said that he died in the year 62 A.H.

2- Ibrahim An-Nakh'i

He is Ibrahim Ibn Yazid Ibn Qayss An-Nakh'i Al-Kufi, he was jurist. He narrated from Masrouq and 'Alqamah and Shurayh and others. They have all agreed on his great measure and skillfulness in jurisprudence. He is the Sheikh who taught Hammad Ibn Abi Suleiman, Abu Hanifah's Sheikh. Ash-Shu'abi said: He did not leave behind him a man more knowledgeable than himself. It was said: Not even Al-Hassan and Ibn Sireen? He said: Not even Al-Hassan and Ibn Sireen and not anyone from the people of Basra or Kufah or Hijaz or the Levant.

It is narrated that Al-A'mash said: An-Nakh'i was the one to truly determine if the Tradition is correct or not. The school of Ibrahim is the one which later produced the Hanafi school. He died while hiding from Al-Hajjaj Ibn Yussuf in the year 96 A.H., he was forty nine years old.

(Third) From the People of Basra

Al-Hassan Al-Basri

He is the son of Abu Al-Hassan Yassar, Zayd Ibn Thabit's freed slave. He was born two years before the assassination of Omar Ibn Al-Khattab (Allah be pleased with him). He narrated from many Companions and Followers of the Companions. He was a trustworthy jurist and a comprehensive Imam. Ibn Sa'd said: Anass Ibn Malik said: Ask Al-Hassan for he learned and we have forgotten.

Due to the lucidity of his views and his penetrating insight it was said about him: If Al-Hassan was a grown man at the time of the Prophet's Companions then they would have been in need of his opinion. Muwriq said: Abu Qutadah said to me: Stay with this Sheikh and take from him, for by Allah I have not seen a man whose opinion is more similar to that of Omar Ibn Al-Khattab.

He refused to go into the political affairs which directly preceded his time saying: These are bloods from which Allah had purified our swords so we better not tarnish our tongues with them. Whenever he is mentioned before Abu Ja'afar Muhammad Al-Baqir he would say: This is the one whose speech is similar to the speech of the Prophets.

He was one of the bravest men of his age and his eloquence used to be compared to that of Al-Hajjaj. He was a story-teller [*Qassas*, one who would tell stories for others to take an example], and he was considered one of their masters and one of the most truthful among them. Ali Ibn Arta'ah

gave him the post of the judge of Basra at the time of Omar Ibn Abd Al-Aziz but he later resigned from that post.

Generally speaking, he had a great measure in his religion and his knowledge and his eloquence and his manners. Qadi 'Iyyad considered him one of the Imams who have a school which is to be followed and written down. It is written in "A'lam Al-Muwaqqi'in" [which is a book on the most famous of jurists and *Muftis*]: One of the scholars collected his *Fatwas* in seven great volumes. They said that the knowledge and merit he had was due to the fact that he was breastfed from the bosom of Umm Salamah the mother of the faithful (Allah be pleased with her). He died in the year 110 A.H. and all of the people of Basra followed his funeral so that there was no one to pray the afternoon prayer in the mosque.

(Third) From the People of Basra

Al-Hassan Al-Basri

He is the son of Abu Al-Hassan Yassar, Zayd Ibn Thabit's freed slave. He was born two years before the assassination of Omar Ibn Al-Khattab (Allah be pleased with him). He narrated from many Companions and Followers of the Companions. He was a trustworthy jurist and a comprehensive Imam. Ibn Sa'd said: Anass Ibn Malik said: Ask Al-Hassan for he learned and we have forgotten.

Due to the lucidity of his views and his penetrating insight it was said about him: If Al-Hassan was a grown man at the time of the Prophet's Companions then they would have been in need of his opinion. Muwriq said: Abu Qutadah said to me: Stay with this Sheikh and take from him, for by Allah I have not seen a man whose opinion is more similar to that of Omar Ibn Al-Khattab.

He refused to go into the political affairs which directly preceded his time saying: These are bloods from which Allah had purified our swords so we better not tarnish our tongues with them. Whenever he is mentioned before Abu Ja'afar Muhammad Al-Baqir he would say: This is the one whose speech is similar to the speech of the Prophets.

He was one of the bravest men of his age and his eloquence used to be compared to that of Al-Hajjaj. He was a story-teller [*Qassas*, one who would tell stories for others to take an example], and he was considered one of their masters and one of the most truthful among them. Ali Ibn Arta'ah

gave him the post of the judge of Basra at the time of Omar Ibn Abd Al-Aziz but he later resigned from that post.

Generally speaking, he had a great measure in his religion and his knowledge and his eloquence and his manners. Qadi 'Iyyad considered him one of the Imams who have a school which is to be followed and written down. It is written in "A'lam Al-Muwaqqi'in" [which is a book on the most famous of jurists and *Muftis*]: One of the scholars collected his *Fatwas* in seven great volumes. They said that the knowledge and merit he had was due to the fact that he was breastfed from the bosom of Umm Salamah the mother of the faithful (Allah be pleased with her). He died in the year 110 A.H. and all of the people of Basra followed his funeral so that there was no one to pray the afternoon prayer in the mosque.

The Fourth Stage Legislation: from the Beginning of the Second Century to the Middle Fourth Century

The State of Legislation at that Age⁽¹⁾

The state of legislation at that age was moving with a youthful vigor. Advancing with vast steps and manifesting itself in wonderful appearances. Research into the religious sciences began to mature so that legislation at that time became almost like an independent unit in its distinguished and mature nature and its comprehensiveness, discipline, organization and the collective effort to bring about its hidden aspects and support its foundations.

Islamic jurisprudence became a great treasure which it left for future generations and Muslims no longer needed great efforts to know its particulars or to regulate its universal aspects. Any work researchers had yet to do did not exceed the one established by the men of that age, so it was either detailing what was summarized or summarizing what was detailed or gathering what was left in that age so as to ration this great legacy and reaping the harvest of the great and rich

(1) This section is not part of the syllabus and it is mentioned because there is great need to understand it and it is greatly beneficial.

minds or seeking the light of the knowledge of the people of that age. So that this age was deservedly be called the age of activity, strength, intellectual maturity which included great scholarly efforts, deep and productive research, acute yet benign juristic competitions, absolute diligence, and daring freedom to look into the law and derive its judgments.

The sciences of the Quran, the Sunnah, Theology, linguistics and grammar were written down in it, the greater people of the recital of the Quran, interpretation, linguists, Traditionalists, Theologians, and jurists all appeared in it.

The Activity and Expansion of Legislation

The scientific activity of that age was not confined to the circle of jurisprudence alone, but in all scientific and literary aspects. Dashing ideas did not appear in one solitary field, they took every direction.

The scholarly movement before that age mainly stood on religious grounds, it did not exceed the Quran, the Traditions, and the biography of the Prophet (Prayers of Allah and His Peace upon him) except to things connected to it such as Quranic interpretation (*Tafsir*), derivation of judgments, and preaching.

If scholarly efforts at that age had any connection with more scientific endeavors such as medicine and Chemistry, this was limited and almost negligible if compared to religious studies. Even the branches of religious knowledge did not receive their fair share of writing down and distinguishing parts from each others, seeing what particulars these branches contain. They were diversified topics which

relied on oral narration and transmission which were not organized into a whole. Having no specialization in one particular branch at that time, you would see the one man of knowledge bringing various things about various forms of knowledge in the one assembly as it is narrated about Abdullah Ibn Abbas and as it is known about others.

No matter how indicative that was about one's plentitude of knowledge and aptitude for learning, there was still a need for the organization of this wealth and to use it so that it would maintain its existence and so that its range would become more comprehensive so as to be sufficient for the needs of the people in the future.

At the second Hijri century, which is the beginning of the stage we are discussing, the Muslims took a direction unprecedented by their predecessors. A direction which the predecessors simply did not have the means to take, the scholars of that age spent plenty of their efforts in writing down and arranging the issues of the various branches of knowledge classifying them in a manner which distinguishes each branch from the other.

In addition to this, they devised new branches of knowledge which were related to Arabic and which are also closely related to the sciences of religion such as linguistics, grammar, the sciences of the Traditions, meters of poetry, literature studies, and history. Their high resolve did not stop there, they went beyond this into translating other forms of knowledge and so on widening the spectrum of the intellectual life of that age. The Muslims showed an amazing activity so that they had many scientific groups, new

academic disciplines appeared between them each of them performing its duty in a particular aspect.

Those groups included distinguished leaders who became true authorities in the branch of knowledge they set out to learn. Initially and essentially, their purpose was the removal of ignorance from the Islamic environs and to saturate them with scientific and academic material. This purpose drove them to compete between each other so that each group would produce what the others did not produce whether this person was a jurist, a linguist, a mathematician, or a physicist.

Even though those new branches of knowledge were not considered a part of the religious sciences, on all cases they paved the jurists' way and opened the doors of research for them, providing their path with a powerful light allowing them to know aspects of research and discovery which their predecessors did not know.

What is of particular concern for us is that this age produced thirteen diligent men of knowledge (*Mujtahid*) whose principles of jurisprudence were written down, whose views were imitated, and whose religious Imamate and juristic leadership were acknowledged by the majority of the Islamic public becoming the leaders and the examples.

This was the age of Sufian Ibn 'Uyaynah in Mecca, Malik Ibn Anass in Medina, Al-Hassan Al-Basri in Basra, Abu Hanifah and Sufian Ath-Thawri in Kufah, Al-Awza'i in the Levant, Ash-Shafi'i and Al-Laith Ibn Sa'd in Egypt, Is-haq Ibn Rahawayh in Naissabur, Abu Thawr, Ahmad, Dawud Ath-Thahiri, and Ibn Jarir in Baghdad.

relied on oral narration and transmission which were not organized into a whole. Having no specialization in one particular branch at that time, you would see the one man of knowledge bringing various things about various forms of knowledge in the one assembly as it is narrated about Abdullah Ibn Abbas and as it is known about others.

No matter how indicative that was about one's plentitude of knowledge and aptitude for learning, there was still a need for the organization of this wealth and to use it so that it would maintain its existence and so that its range would become more comprehensive so as to be sufficient for the needs of the people in the future.

At the second Hijri century, which is the beginning of the stage we are discussing, the Muslims took a direction unprecedented by their predecessors. A direction which the predecessors simply did not have the means to take, the scholars of that age spent plenty of their efforts in writing down and arranging the issues of the various branches of knowledge classifying them in a manner which distinguishes each branch from the other.

In addition to this, they devised new branches of knowledge which were related to Arabic and which are also closely related to the sciences of religion such as linguistics, grammar, the sciences of the Traditions, meters of poetry, literature studies, and history. Their high resolve did not stop there, they went beyond this into translating other forms of knowledge and so on widening the spectrum of the intellectual life of that age. The Muslims showed an amazing activity so that they had many scientific groups, new

academic disciplines appeared between them each of them performing its duty in a particular aspect.

Those groups included distinguished leaders who became true authorities in the branch of knowledge they set out to learn. Initially and essentially, their purpose was the removal of ignorance from the Islamic environs and to saturate them with scientific and academic material. This purpose drove them to compete between each other so that each group would produce what the others did not produce whether this person was a jurist, a linguist, a mathematician, or a physicist.

Even though those new branches of knowledge were not considered a part of the religious sciences, on all cases they paved the jurists' way and opened the doors of research for them, providing their path with a powerful light allowing them to know aspects of research and discovery which their predecessors did not know.

What is of particular concern for us is that this age produced thirteen diligent men of knowledge (*Mujtahid*) whose principles of jurisprudence were written down, whose views were imitated, and whose religious Imamate and juristic leadership were acknowledged by the majority of the Islamic public becoming the leaders and the examples.

This was the age of Sufian Ibn 'Uyaynah in Mecca, Malik Ibn Anass in Medina, Al-Hassan Al-Basri in Basra, Abu Hanifah and Sufian Ath-Thawri in Kufah, Al-Awza'i in the Levant, Ash-Shafi'i and Al-Laith Ibn Sa'd in Egypt, Is-haq Ibn Rahawayh in Naissabur, Abu Thawr, Ahmad, Dawud Ath-Thahiri, and Ibn Jarir in Baghdad.

Some of these schools was destined to last until our present day and others were destined to perish with time. There were many other schools which did not have the fortune of having their principles growing widely spread and for many people to adhere to them. Generally speaking, that was an age which had a vast scientific movement in all of the Islamic countries.

The most important centers of legislation at that time were Baghdad, Kufah, Basra, Medina, Egypt, Damascus, Merv, Naissabur, Al-Qayruwan, and Cordova. All of these cities and others had a blessed growth in terms of investing the effort and activity of their respective men of knowledge in each art, amassing a vast share of every form of knowledge.

The Factors Leading to the Legislative Activity in the Fourth Stage

The Caliphs' patronage for jurisprudence and the jurists, the freedom of opinion, the plentitude of argumentation, the plentitude of the occurrences, the influence of the cultures of the various nations on the intellects, and the writing down of sciences.

1- The Caliphs' Patronage for Jurisprudence and the Jurists

The Abbasid Caliphs did not confine their interests to politics as was the case in the Umayyad age. A religious tendency was prevalent in them driving them to introduce a

certain religious character in all of the aspects of the state. They particularized the jurists with their favor and drew them near to stations which no one else had with the Caliphs. Abu Ja'afar Al-Mansur particularized them with his gifts, Al-Mahdi and those who came after him persecuted the heretics and went to great lengths in doing so, Ar-Rashid particularized Abu Yussuf [who was Abu Hanifah's direct disciple] with companionship, and Al-Ma'moun contributed to academic arguments as he raised the issue of the creation of the Quran, driving different scholars into a ferocious argument.

The patronage shown by the Caliphs for jurisprudence and the jurists had a great effect on legislation as is the case in all things which rulers show interest in. Rulers are the most capable of men of encouraging the masses, and the majority of their people would be quick to execute the purposes of these rulers. One of the results of this issue is that the range covered by jurisprudence became more comprehensive and it became the axis about which the affairs of state turned so religious books called for by this life filled with occurrences were written. An example of this is Abu Yussuf's book on the collection of taxes which took into consideration all the aspects relating to the collection of money.

Generally speaking, jurisprudence became a vast and universal body becoming increasingly inclusive due to the plentitude of new events which took place with the modern civilization of that time and the necessities of urbanization. The activities of jurisprudence did not cease there, the jurists began to solve affairs which were assumed, meaning events

which were imaginary and which did not take place, using the means of their diligence to recognize the rulings on those assumptions until the habits of people, despite the variety of their states and the diversity of their nations, became connected through this jurisprudence. Regional differences did not distance them as those firm legislative connections made them one nation which is united in its traditions and appearances.

2- The Freedom of Opinion

One of the causes of the juristic activities among the scholars was the freedom of opinion which they enjoyed in their scientific research. So the one of them would be diligent in recognizing the ruling and accepts what he feels comfortable with without being ruled by the authorities or having his opinion suppressed.

The reference of all of them was Allah's Book and the Sunnah of His Messenger as long as he is worthy of diligence and since the government of that time did not commit itself to a particular law in legislation, or a particular school of jurisprudence. The one issue would be given to the jurists and it would take more than one ruling, each of the judges and the *Muftis* would provide the verdicts which ensue from his diligence.

This was also the case between the scholars in the affairs which do not relate to juristic issues such as the issues of worship. This is all for the men of knowledge who were worthy of diligence, as for those who were not qualified enough to do so, those were free to follow any *Mufti* they like

since the schools of jurisprudence were not limited yet and people did not follow a school in particular except after this as we will later clarify.

3- The Plentitude of Argumentation

Disagreement and argumentation between men of knowledge are not new factors. We have already told you about what took place between the Companions at the days of the Caliphate then between the Hijazi and Iraqi men of knowledge at the time of the Umayyads and we pointed the causes of these disagreements to you.

Argumentation, however, reached new peaks at this age. It became more severe and the range of its subjects vastly increased with the increase of the men of knowledge, the development of the minds, and the opening of new doors which did not exist before in the social life in addition to the fact that using opinion was on the rise and reliance on it in deduction through analogy became increasingly prevalent. Add to this the fact that juristic scholars derived from the newly introduced study of logic in argumentation.

There was a strong debate between the scholars about the determination of the linguistic terms, or whether to understand certain statements literally or figuratively, the relationship of the Quran to the Sunnah and vice versa. Whether the action of a certain Companion is a proof of a certain point or not, deduction through analogy and how far should it reach, when should it be used and when should it not be used, and so on which are all points relating to what the jurist relied upon in deriving judgments.

Their arguments were oral at times, in the circles of lecturing, in the houses, in the mosques and the seasons of pilgrimage. At other times it was through writing and exchange of letters so authoring books itself fell under the influence of the argumentative style as it is obvious from "*Kitab Al-Umm*" which was written by Ash-Shafi'i and similar other books.

The books became filled with those debates and they reflected the mentality of the scholars and their presence of mind and their ability to concentrate the judgments which they understand.

These also aided the later scholars to understand the point of view their predecessors argued from and to find how each group derived the rulings which they reached, making this a good nutrition for the scholarly spirit later on. However, one must also be attentive to the fact that not all of these debates were transmitted to us with their entirety and in an objective manner. Some of the later scholars changed certain points in them just as they made up arguments attributing them to those predecessors so as to publicize their own view and out of sectarian bigotry.

This led to argumentation, after its initial purpose of reaching the truth, becoming a tool for defeating others and an axe through which each sect would use to undermine anything which does not agree with their own views. It deviated from its original way and many aspects which have little to do with the essence of the subjects were introduced to it, and this is why we see that many things which reached us concerning knowledge was strange and unneeded.

4- The Plentitude of Occurrences

As the Muslim population and the area of the regions in which Islam became prevalent increased in the Abbasid age, and many nations with various traditions, civilizations and religions become enjoined in this Islamic religious unity. This led to the further dispersion of the Muslim men of knowledge within these regions.

The social occurrences which originate in each of those environments had to be given their religious verdicts, and this in its turn led those scholars to find the verdict of Islam about the habits and customs of those people. So a scholar in a certain region may be faced with a case which no one else is exposed to, this necessitates the emergence of new judgments which the people did not know before. This challenge called for the resolves of the scholars to take people to the side of religion so that they would be united in their adherence to it, and so that their lives would be characterized with its teachings.

The jurists in Iraq had to handle the customs and occurrences which were largely Persian, while in the Levant Al-Awza'i and his companions had to deal with customs, traditions, rulings, and dealings which were all Hellenistic. In Egypt, Al-Laith Ibn Sa'd and Ash-Shafi'i had to deal with a mixture of ancient Egyptian and Hellenistic customs.

This was the case in every country the Muslims entered, it was part of the job of their scholars to thoroughly examine what occurs with them, approve parts of it and reject others so that the public life of those regions had a new Islamic color within them. This public life would also have rulings which

are as many as the customs and occurrences around them as you have seen.

It was natural that certain regions would have certain occurrences which would take place in it and which do not take place in any other place under the influence of the social factors and the regional differences. So the scholars of each region felt the need to recognize what the other scholars went through. Travelling for scholarly purposes between the ones who were occupied with diligence and *Fatwa* began to appear such as the journey Rabi'ah Ar-Ra'y did from Medina to Iraq, and the one which Muhammad Ibn Al-Hassan undertook from Iraq to Medina, and Ash-Shafi'i to Medina then Iraq and then Egypt and so on.

The purpose those journeys served was that each of the scholars of the various regions took from each other making the points of view between them come closer to each other. The incompleteness some had was completed through others, their writings took a more unified and standard form due to the knowledge each took from the others.

5- The Influence of the Cultures of the Various Nations on the Intellects

The Islamic nation included people of many religions and religious backgrounds. There were among the population those who were Jewish, Christians, Zoroastrians, Romans and many others. Some of them entered into Islam out of real conviction, some entered out of coveting certain benefits or any other purpose.

The religious connection was a powerful factor in allowing for a social connection, so dealings took place between them and those various peoples intermarried. The nearness between them became increasingly firm and there was nothing to prevent the unity of this totality.

But each of those groups had its own cultural background which differed to a certain extent from the cultures of others, and forms of knowledge which were unlike the ones present in others. So it was natural, after this social interconnection which took place between them that people would exchange the forms of knowledge which they had deriving from the experience they had. This had an influence in allowing the intellects to reach maturity, and for intellectual activity to grow, and for understanding the world to prosper.

This shows itself most clearly in the juristic rulings which, after faith itself, were the first tie between all of those people as it was the root of order in society and the dealings associated with it.

This scholarly and social connection allowed for the prevalence of the translation of sciences in that age, so the sciences of medicine, Chemistry, philosophy, logic, literature and all what can be translated did take place at that age.

Logic and philosophy were first applied to Theology due to the many points of argument which were raised by the people of the various religions against the Islamic faith. The Muslims scholars of that age - and particularly the Mu'tazilah - had to arm themselves with logic and philosophy so as to resist those arguers. Philosophical argumentation then found its way to Islamic jurisprudence in proving its ruling

which were based on diligence between the Muslim sectarian groups. This shows the extent of the influence of the various cultures has on the intellects in widening the circle of derivation and the continuation of efforts and activities.

6- Writing Down the Sciences

The writing down of the various forms of knowledge was a necessary result of the previous factors even though we considered it with them as a separate factor of the scholarly prosperity of that time.

Writing down knowledge had its precedents in the Umayyad age but it was never on the scale which took place in the Abbasid age. That latter age had the means which allow for this, although it had a breadth and width of subjects which were not confined to jurisprudence, jurisprudence had a share of it as did other forms of knowledge.

Jurisprudence also reaped many benefits from writing down the other forms of knowledge since sciences and academic studies are all like one network whose parts are connected contributing to the service of each other. One form of knowledge would support others. This was particularly applicable to jurisprudence, for it was more connected to all the forms of knowledge than any other discipline. You must also keep in mind that having written sources makes the ways of research easier and allows one to find references to sciences no matter how many those sciences are. It allows the person to learn many issues over a short period of time.

We shall look with some further detail at some of the branches of knowledge which were written down and which

are closely associated with jurisprudence, such as Quranic interpretation and the Sunnah.

Quranic Interpretation (*Tafsir*)

The interpretation of the Quran was not written down as an independent discipline of knowledge before this age we are discussing. What the Prophet (Prayers of Allah and His Peace upon him) interpreted was narrated just as the Traditions were narrated and this was not according to any particular order or connected and coherent method. Add to this the fact that the number of Traditions which can be narrated in this respect was not great. It is even narrated that Aisha (Allah be pleased with her) said: The Prophet (Prayers of Allah and His Peace upon him) only interpreted a small number of the Verses of the Quran as Gabriel taught him.

At the time of the Companions (Allah be pleased with them) they were known to have interpreted many Verses, especially Ali Ibn Abi Taleb, Abdullah Ibn Abbas, Ibn Mas'ud, and Ubayy Ibn Ka'b. Those people were distinguished among the Companions with their ability to interpret the Verses of the Holy Quran, and their occasional clarification of the causes of revelation. What they relied upon was what they heard from the Messenger (Prayers of Allah and His Peace upon him) and their own diligence.

Then came the Followers of the Companions and they narrated the interpretations the Companions were known to have made, and added to these their own interpretation based on their own diligence. So the people of each age related and

narrated what was mentioned by those before them adding to them the aspects of meanings which were revealed to them.

Interpretation throughout all of these stages was influenced with many things which were mentioned in the Torah and the Gospels and their interpretations. The people of the Book who became Muslims would join the Islamic masses by virtue of their conversion, and they would transmit to them what was mentioned in their own books which would help them to understand the meanings of the Quran as there was nothing to prevent the Muslims from interpreting the Quran in light of such information.

One of those who were among the Companions and who had an influence in this respect were Wahb Ibn Munbih, Ka'b Al-Ahbar, and Abdullah Ibn Salam. Ibn Juraij and others are also considered among the Followers of the Companions.

After this age, the men of knowledge and the scholars directed their efforts to the collection of the interpretations which were heard about the Prophet and his Companions. So the men of knowledge of each country would collect what is known from the Imams of their country as was the case with the people of Mecca who collected the interpretations of Ibn Abbas, and the people of Kufah who collected the interpretations of Ibn Mas'ud.

Then the men of knowledge made yet a further effort. They collected all the interpretations which were known from the Companions and their Followers in all the different countries. Yet despite this effort they still did not arrange what they collected according to the arrangement of the Quranic Verses. The scholars who made these efforts include

Sufian Ibn 'Uyaynah, Waki' Ibn Al-Jarrah, and Is-haq Ibn Rahawayh.

During the Abbasid age the scholars began to organize the interpretations according to the arrangement of the Quranic Verses, at that time the interpretations of Ibn Juraij, the interpretation of As-Saddi, and of Muhammad Ibn Is-haq and others all became well known. Despite the large volume of interpretations which were written at that age and the fame they acquired, they did not reach us in their entirety. Their content was delivered to us by Ibn Jarir At-Tabari in his famous interpretation which still exists and is still read until the current day.

People at that time took different stances from Quranic interpretation: there was a group who found it unacceptable to make their own interpretations and to accept anything other than what was mentioned by the Prophet (Prayers of Allah and His Peace upon him) and his Companions.

Another group of people did not find any problem in interpreting the Quran through their own diligence if it was based on vast knowledge of the language and its ways and the knowledge connected with this such as the causes of the revelation and which texts annulled others and which texts were annulled. Some of the books contained both approaches such as the interpretation of Ibn Jarir which contained interpretation through both Traditions and the ones which were based on diligence. Interpretation (*Tafsir*) was the name given to that which was based on Traditions, while exegesis (*Ta'wil*) was the name given to that which was based on diligence to differentiate the two.

which were based on diligence between the Muslim sectarian groups. This shows the extent of the influence of the various cultures has on the intellects in widening the circle of derivation and the continuation of efforts and activities.

6- Writing Down the Sciences

The writing down of the various forms of knowledge was a necessary result of the previous factors even though we considered it with them as a separate factor of the scholarly prosperity of that time.

Writing down knowledge had its precedents in the Umayyad age but it was never on the scale which took place in the Abbasid age. That latter age had the means which allow for this, although it had a breadth and width of subjects which were not confined to jurisprudence, jurisprudence had a share of it as did other forms of knowledge.

Jurisprudence also reaped many benefits from writing down the other forms of knowledge since sciences and academic studies are all like one network whose parts are connected contributing to the service of each other. One form of knowledge would support others. This was particularly applicable to jurisprudence, for it was more connected to all the forms of knowledge than any other discipline. You must also keep in mind that having written sources makes the ways of research easier and allows one to find references to sciences no matter how many those sciences are. It allows the person to learn many issues over a short period of time.

We shall look with some further detail at some of the branches of knowledge which were written down and which

are closely associated with jurisprudence, such as Quranic interpretation and the Sunnah.

Quranic Interpretation (*Tafsir*)

The interpretation of the Quran was not written down as an independent discipline of knowledge before this age we are discussing. What the Prophet (Prayers of Allah and His Peace upon him) interpreted was narrated just as the Traditions were narrated and this was not according to any particular order or connected and coherent method. Add to this the fact that the number of Traditions which can be narrated in this respect was not great. It is even narrated that Aisha (Allah be pleased with her) said: The Prophet (Prayers of Allah and His Peace upon him) only interpreted a small number of the Verses of the Quran as Gabriel taught him.

At the time of the Companions (Allah be pleased with them) they were known to have interpreted many Verses, especially Ali Ibn Abi Taleb, Abdullah Ibn Abbas, Ibn Mas'ud, and Ubayy Ibn Ka'b. Those people were distinguished among the Companions with their ability to interpret the Verses of the Holy Quran, and their occasional clarification of the causes of revelation. What they relied upon was what they heard from the Messenger (Prayers of Allah and His Peace upon him) and their own diligence.

Then came the Followers of the Companions and they narrated the interpretations the Companions were known to have made, and added to these their own interpretation based on their own diligence. So the people of each age related and

narrated what was mentioned by those before them adding to them the aspects of meanings which were revealed to them.

Interpretation throughout all of these stages was influenced with many things which were mentioned in the Torah and the Gospels and their interpretations. The people of the Book who became Muslims would join the Islamic masses by virtue of their conversion, and they would transmit to them what was mentioned in their own books which would help them to understand the meanings of the Quran as there was nothing to prevent the Muslims from interpreting the Quran in light of such information.

One of those who were among the Companions and who had an influence in this respect were Wahb Ibn Munbih, Ka'b Al-Ahbar, and Abdullah Ibn Salam. Ibn Juraij and others are also considered among the Followers of the Companions.

After this age, the men of knowledge and the scholars directed their efforts to the collection of the interpretations which were heard about the Prophet and his Companions. So the men of knowledge of each country would collect what is known from the Imams of their country as was the case with the people of Mecca who collected the interpretations of Ibn Abbas, and the people of Kufah who collected the interpretations of Ibn Mas'ud.

Then the men of knowledge made yet a further effort. They collected all the interpretations which were known from the Companions and their Followers in all the different countries. Yet despite this effort they still did not arrange what they collected according to the arrangement of the Quranic Verses. The scholars who made these efforts include

Sufian Ibn 'Uyaynah, Waki' Ibn Al-Jarrah, and Is-haq Ibn Rahawayh.

During the Abbasid age the scholars began to organize the interpretations according to the arrangement of the Quranic Verses, at that time the interpretations of Ibn Juraij, the interpretation of As-Saddi, and of Muhammad Ibn Is-haq and others all became well known. Despite the large volume of interpretations which were written at that age and the fame they acquired, they did not reach us in their entirety. Their content was delivered to us by Ibn Jarir At-Tabari in his famous interpretation which still exists and is still read until the current day.

People at that time took different stances from Quranic interpretation: there was a group who found it unacceptable to make their own interpretations and to accept anything other than what was mentioned by the Prophet (Prayers of Allah and His Peace upon him) and his Companions.

Another group of people did not find any problem in interpreting the Quran through their own diligence if it was based on vast knowledge of the language and its ways and the knowledge connected with this such as the causes of the revelation and which texts annulled others and which texts were annulled. Some of the books contained both approaches such as the interpretation of Ibn Jarir which contained interpretation through both Traditions and the ones which were based on diligence. Interpretation (*Tafsir*) was the name given to that which was based on Traditions, while exegesis (*Ta'wil*) was the name given to that which was based on diligence to differentiate the two.

As the sciences and their branches grew in number at that age, and they were written down in a manner distinct from each other each group aspired to the aspect in which they specialized: each group looked at the Holy Quran from the aspect which is connected to them. The linguists looked at it from the aspect of its vocabulary, writing books in the interpretation of the unusual words which were mentioned in it. The scholars who studied grammar looked at it from the aspect the formation of its sentences, writing books in analyzing those sentences. The jurists also wrote books in the judgments present in it such as "*Ahkam Al-Quran*" which was written by Ar-Razi, and the book also titled "*Ahkam Al-Quran*" which was written by Ibn Al-Arabi. The Theologians also took what relates to the affairs of faith and finding proofs of their various understandings of it.

On all cases these sciences which appeared in their variety within the Abbasid age, such as the two branches of grammar: *Nahw* and *Sarf*, history, and others all collaborated in allowing a deeper understanding of the Quran, illuminating the way before the interpreters, so interpretations became increasingly more comprehensive and sources became abundant. References became existent, people were now able to find their needs within these writings, and the researchers were given the choice of using those resources to further understand the Holy Quran.

The Sunnah

The Arab nation was mostly illiterate as referred to by Allah's saying: "It is He Who has sent amongst the

Unlettered an apostle from among themselves" [Surah of Friday: 2].

﴿هُوَ الَّذِي بَعَثَ فِي الْأُمِّيِّينَ رَسُولًا مِنْهُمْ﴾ [الجمعة: 2]

The average Arab then learned by virtue of his reliance on his own intuition and memory, and by virtue of having nothing else to rely upon so he was more capable of learning by heart from the literate person who is capable of writing.

This is what the Companions (Allah be pleased with them) relied upon in their own learning: the presence of mind and the bright intellect needed to preserve the Sunnah. They did not write it down and the Prophet (Prayers of Allah and His Peace upon him) did not command them to write it down as he did with the Holy Quran. On the contrary, he prohibited them from writing it, it is narrated in the Sahih of Muslim that the Prophet (Prayers of Allah and His Peace upon him) said: "Do not write anything from what you hear from me except for the Quran".

This prohibition from the Prophet (Prayers of Allah and His Peace upon him) perhaps issued to his writers of revelation who used to write the Quran in papers to preserve them in the Prophet's house, if he allowed them to write his Traditions then there was a good chance it would be mixed up with the Quran.

What confirms this belief is that we found that the Prophet (Prayers of Allah and His Peace upon him) permitted those who asked him to write what they hear from to do so. It is narrated in "Musnad Ahmad" that Abdullah Ibn Omar said: I used to write down everything which I heard from the Messenger of Allah (Prayers of Allah and His Peace upon

him) so that I would learn it, Quraish prohibited me from doing so, they said: You write all the things which you hear from the Messenger of Allah (Prayers of Allah and His Peace upon him) and the Messenger of Allah is human, he speaks in anger and he speaks at times of joy. I stopped writing down until I mentioned this to the Messenger of Allah (Prayers of Allah and His Peace upon him), he said: "Write it all down! For by the One who holds my soul in His Hand nothing but the Truth emerges from me".

Abu Huraira used to say: No one accompanied the Prophet (Prayers of Allah and His Peace upon him) more than I did except for Abdullah Ibn Omar, for he used to write and I did not. When the Prophet (Prayers of Allah and His Peace upon him) made a speech on his camel in the year of the conquest and said: "Allah had prevented the elephant from entering Mecca... etc" a man from Yemen came to him and said: Write this down for me, O Messenger of Allah -meaning the speech which he had heard- the Messenger (Prayers of Allah and His Peace upon him) said: "Write it down for Abu Shah".

He also ordered the writing of a letter to Amr Ibn Hazm when he sent him to Najran. That letter had the clarification of the restitution for the killed person and the indemnities for organs clarified in it. It is also known that Ali (Allah honor his face) had a paper in which the indemnities, the release of the captives, and that no Muslim is to be killed in capital punishment for an infidel all written in it. An-Nasa'i narrates that the following was written in it: "The believers are equal in terms of their blood, and they are one hand against others, the least of them may give a pact which is binding for all of

them. No Muslim is to be killed in return for an infidel, and no Muslim is to kill an infidel with whom he made a pact as long as the pact remains. He who does anything contrary to this does so against his own self, and he who gives refuge to one who does any of this may the Allah's curse, that of the angels, and that of all the people fall on him".

Whatever the affair was, the Sunnah which was written in the time of the Messenger of Allah (Prayers of Allah and His Peace upon him) was very scanty. This is due to the prevalence of illiteracy and their fear that the Tradition would be mixed up and confused with the Holy Quran and so that the people would not be driven away through learning the Sunnah from learning the Quran. Add to this the fact that the Muslims over the next two generations were largely occupied with conquests and the public affairs, then with the internal disturbances and seditions which took place between them.

The affair remained in this state until the beginning of the second Hijri century when the men of knowledge began to write it down. The Just Caliph Omar Ibn Abd Al-Aziz saw the necessity of this, so on the year preceding his death he wrote to the governor he appointed over Medina, Abu Bakr Muhammad Ibn Amr Ibn Hazm: See any of the Traditions or ways of the Messenger of Allah (Prayers of Allah and His Peace upon him) and write them down, for I fear the extinction of knowledge and the death of all the men who possess it.

At that stage writing down the Tradition, which is the vast substance of jurisprudence, began, for it is said that Ibn Hazm

collected several books to that effect, but Omar died before he could send them to him.

From that time onwards, the men of knowledge began to collect and write down the Sunnah. This tendency found its way to other Islamic lands. Ibn Juraij collected the Traditions in Mecca, Muhammad Ibn Is-haq and Malik Ibn Anass collected them in Medina, Ar-Rabi' Ibn Sabih, Sa'id Ibn Abi 'Aruba and Hammad Ibn Salamah collected them in Basra. Sufian Ath-Thawri collected them in Kufah, Al-Awza'i collected them in the Levant, Mu'ammarr collected them in Yemen, Ibn Al-Mubarak collected them in Khurassan and Al-Laith Ibn Sa'd collected them in Egypt.

All of those people collected the Traditions then divided them into detailed chapters independent from each other. Each chapter would include the Traditions relating to one subject such as the prayer or the *Zakat* and the like, but they did not collect the Prophetic Traditions for their own sake, they mixed them with the statements of the Companions and the *Fatwas* of their Followers.

At the end of the second century another group of men of knowledge who were concerned with looking into the chains of narration emerged. They concerned themselves with writing these chains and writing in their books only the Traditions of the Prophet (Prayers of Allah and His Peace upon him) alone and not what others said.

One of the first people to write books about the chains of narration was Abdullah Ibn Musa Al-'Absi Al-Kufi and Musaddad Ibn Musarhad Al-Basri and Nu'aym Ibn Hammad Al-Khuza'i who was a resident of Egypt among others.

One of those books of *Asanid* [Books of the chains of narration] was the "Musnad" of Imam Ahmad Ibn Hanbal (Allah be pleased with him). The way those books were written as Imam Ahmad saw was for the Traditions narrated by each of the Companions to be placed in a separate chapter, and this did not take subjects into consideration, so the Tradition about prayer can be followed by one about Holy War and that in its turn can be followed by one about dealings and so on.

This class of scholars was soon followed by a third class who undertook the task of distinguishing correct Traditions from others. Each of them established certain criteria to accept a Tradition which may agree with other men who made the same endeavor or may differ from them. They also took the arrangement of the Traditions according to the chapter of jurisprudence into consideration in a manner similar to the first class of scholars.

The six Imams were among those who used this method, the six Imams being: Muhammad Ibn Isma'il Al-Bukhari who died in the year 256 A.H., Muslim Ibn A-Hajjaj An-Naissaburi who died in the year 261 A.H., Abu Dawud Suleiman Ibn Al-Ash'ath As-Sajsatani who died in the year 275 A.H., Abu Issa Muhammad Ibn Issa As-Sulami At-Tirmithi who died in the year 279 A.H., Abu Abdullah Muhammad Ibn Yazid Al-Qazwini who is known by the name of Ibn Majah who died in the year 273 A.H., and Abu Abd Ar-Rahman Ibn Ahmad Ibn Shu'aib An-Nasa'i who died in the year 303 A.H.

The books of these Imams are the ones known as "the Six Books".

In addition to those Traditionalists, a group of scholars made their efforts in testing the narrators and transmitters of the Traditions, finding some of them trustworthy and others not so much. So this age we are discussing did not end without producing the "science of criticism and praising" [*Ilm Al-Jarh Wa At-Ta'dil*] which had its own principles and disciplines and regulations.

Among the men of this branch of knowledge are: Yahya Ibn Sa'id Al-Qattan who died in the year 189 A.H., Abd Ar-Rahman Ibn Mahdi who died in the year 198 A.H., Yahya Ibn Mu'in who died in the year 223 A.H. and Imam Ahmad Ibn Hanbal who died in the 241 A.H.

One person after the other served this science until there emerged those who dedicated special books for trustworthy narrators of Traditions and other books for those who are not trustworthy. They also devised certain rules for distinguishing a Tradition's level of truthfulness beginning with the ones which are agreed upon, then the correct Traditions and so on. They also distinguished the sciences relating to the Traditions through giving them various names such as: the science of the terminology of the Tradition (*Ilm Mustalah Al-Hadith*), the science of the unusual words present within the Traditions (*Ilm Gharib Al-Hadith*), and the science of Traditions whose meanings contradict each other (*Ilm Mukhtalaf Al-Hadith*). Each of those has a function in serving the knowledge of the Prophetic Traditions which are different from others.

As those forms of knowledge joined each other the Traditions became free from every flaw in its text or chain of narration. Its measure in strength and weakness and correctness and the lack of it would be known.

The Four Schools of Jurisprudence and Their Founders

Abu Hanifah

He is An-Nu'man Ibn Thabit Ibn Zutta Ibn Mah the freed slave of Tayyim Allah Ibn Tha'labah. It was also said that he is one of the free Persians. His grandson Isma'il Ibn Hammad said: We are from the free Persians, by Allah we were never in the bondage of anybody, may grandfather An-Nu'man was born in the year 80 after the Hijra, and my great grandfather Thabit went to Ali and he supplicated Allah for him to have bless him in himself and his offspring.

Abu Hanifah was from the followers of the Followers of the Companions. He was the contemporary of four of the Companions: Anass Ibn Malik in Basra, Abdullah Ibn Abi Awfa in Kufah, Sahl Ibn Sa'd As-Sa'idi in Medina, and Abu At-Tufail Amer Ibn Wathilah in Mecca. It is said that he did not meet any of them, it was also said that he met Anass Ibn Malik and took from him the Tradition stating: "Seeking knowledge is an obligation for every Muslim".

In the year 96 A.H. he performed the pilgrimage with his father, he met the Companion Abdullah Ibn Al-Harth Ibn Juz' Az-Zubeidi and heard him say: The Messenger of Allah (Prayers of Allah and His Peace upon him) said: "He who

learns and understands Allah's religion would have Allah suffice him in all what concerns him, and provide him with sustenance from where he does expect". Based on this, he is a Follower of the Companions.

He narrated the Traditions from Ata' Ibn Abi Rabah and Nafi' the freed slave of Ibn Omar and Qutadah and Hammad Ibn Abi Suleiman to whose companionship he dedicated eighteen years, he took jurisprudence from him. Hammad took it from Ibrahim An-Nakh'i who took it from 'Alqamah An-Nakh'i and Al-Aswad Ibn Yazd from Abdullah Ibn Mas'ud.

Abu Yussuf, Muhammad Ibn Al-Hassan, Zufar, Al-Hassan Ibn Ziad and others all learned from Abu Hanifah. Waki' Ibn Al-Jarrah and Ibn Al-Mubarak and others narrated the Traditions from him.

Abu Hanifah was a silk merchant in Kufah, he was renowned for his honest dealings and dislike for bargaining. He had a handsome face and good manners in his assembly, generous, pious, and trustworthy only narrating what he had learned. He is considered a master of good consideration, looking well into things, deduction through analogy, good jurisprudence, and the Imamate.

Ibn Al-Mubarak said: The one with the best understanding of jurisprudence was Abu Hanifah, I have not seen one who is like him in jurisprudence. Yahya Ibn Sa'id Al-Qattan used to say: By Allah we do not lie, we have not heard an opinion better than that of Abu Hanifah and we have put most of his views into effect. Ash-Shafi'i said: People are all dependents of Abu Hanifah in jurisprudence. An-Nadr Ibn Shamil said:

People were heedless of jurisprudence until Abu Hanifah woke them up with what he learned and clarified. Ja'afar Ibn Ar-Rabi' said: I spent five years with Abu Hanifah, I have not seen anyone who remains silent longer than he does, if he was asked about anything concerning jurisprudence he would open up and flow like a torrent. Abu Yussuf narrates: I was walking with Abu Hanifah when we heard someone say to someone else: This is Abu Hanifah who does not sleep at night. He said: By Allah, I will not have him say something about me which I do not do. So he would hold vigilance in prayer for the entire night after this. Al-Hassan Ibn 'Umarah said after he washed Abu Hanifah for his burial: May Allah have mercy upon you and forgive you, you have not broken your fast for thirty years and did not sleep at night for forty years, you have set an example which is difficult to follow by those after you, and shown the readers how little is their action.

Iraq's Umayyad governor, Ibn Hubayrah, wanted Abu Hanifah to become the judge of Kufah. Abu Hanifah refused so Ibn Hubayrah had him whipped 110 times whilst Abu Hanifah persisted in his refusal.

At the time of the Abbasid Caliph, Al-Mansur, he ordered Abu Hanifah to be brought from Kufah to Baghdad, he wanted him to become the judge and Abu Hanifah refused, Al-Mansur made an oath that he would, Abu Hanifah made an oath that he would not. Rabi' the chamberlain said: Do you not see that the prince of the faithful made an oath? He said: The prince of the faithful is more capable than me to atone for his oath.

It is narrated that Ar-Rabi' Ibn Yunus said: I have seen Al-Mansur, the prince of the faithful, command Abu Hanifah to fill the post of judge, Abu Hanifah said: Fear Allah and only share your trust with he who fears Allah, by Allah I do not feel that my own pleasure is trustworthy to give an objective ruling, so how about my anger? I am not suitable for it. Al-Mansur said: You lie, you are suitable for it. Abu Hanifah said: You have said it yourself, how can you entrust someone who is a liar with the appointment of being a judge.

Abu Hanifah had a powerful argument and a good way of getting rid of problematic situations. It is narrated that he was seated in the Mosque one day when a group of three Khawarij entered to him with their swords drawn. They said: O Abu Hanifah, we will ask you about two issues, if you answer them you will survive, otherwise we will kill you. He said: Sheath your swords, seeing them occupies my heart. They said: How can we sheath them while we seek Allah's great reward through sheathing them in your neck? He said: Ask then. They said: There are two funerals at the door, one is a man who drinks alcohol, whilst doing so he choked and died drunk. The other is a woman who became pregnant through adultery and died whilst giving birth before repenting, are they infidels or believers?

The creed of those who asked was that the one who commits one sin is an infidel, so if he said that they are believers he would kill them. Abu Hanifah: What was their religion? Were they Jews? They said: No. He asked: Were they Christians? They said: No. he asked: Were they Zoroastrians? They said: No. He said: So who were they

from? They said: They were from the Muslims. He said: You have answered yourselves. They said to him: Will they be in Paradise or Hellfire? He said: I say about them the same thing which Abraham, Allah's intimate one, said about ones who are more evil than them: **"He then who follows my (ways) is of me, and he that disobeys me,- but Thou art indeed Oft-forgiving, Most Merciful"** [Surah of Abraham: 36].

﴿فَمَنْ يَتَّبِعْنِي فَإِنَّهُ مِنِّي وَمَنْ عَصَانِي فَإِنَّكَ غَفُورٌ رَحِيمٌ﴾ [ابراهيم: 36]

And I say the same thing which Jesus (Peace upon him) said: **"If Thou dost punish them, they are Thy servant: If Thou dost forgive them, Thou art the Exalted in power, the Wise"** [Surah of the Table: 118].

﴿إِنْ تُعَذِّبْهُمْ فَإِنَّهُمْ عِبَادُكَ وَإِنْ تَغْفِرْ لَهُمْ فَإِنَّكَ أَنْتَ

الْعَزِيزُ الْحَكِيمُ﴾ [المائدة: 118]

So they repented and apologized to him.

Abd Al-Wahid Ibn Ghiath said: Abu Al-Abbas At-Tusi used to think badly of Abu Hanifah and Abu Hanifah knew this. One day Abu Hanifah entered into the presence of Al-Mansur, the prince of the faithful, and there were many people. At-Tusi said to himself: I will kill Abu Hanifah today. He then said to Abu Hanifah: The prince of the faithful commanded us to strike the neck of a man and we do not know what his affair is, is it permissible for us to kill him? He said: O Abu Al-Abbas, does the prince of the faithful command truth or falsehood? He said: The truth of course. He said: Then follow the truth wherever it is and do not ask about it. Abu Hanifah said to those who are near him: This man wanted to tie me so I tied him first.

Some people claimed that Abu Hanifah did have much knowledge of the Traditions and that he only narrated 17 Traditions. This, however, is false as it is known that he has 215 Traditions which he was singular in narrating them in addition to those which he shared with the other Imams in addition to the fact that he had a *Musnad* in which he narrated 118 Traditions in the chapter of the prayers alone.

Ibn Hajar Al-'Asqalani said in his "Ta'jil Al-Manfa'ah Bi Zawa'id Rijal Al-A'immah Al-Arba'ah" [Hastening the Benefit in the Additional Traditions of the Four Imams]: As for the *Musnad* of Abu Hanifah, he is not the one to have collected it. It is the book the Traditions which Muhammad Ibn Al-Hassan narrated from him, there are other Traditions present in the books written by Muhammad Ibn Al-Hassan and Abu Yussuf. Al-Hafiz Abu Muhammad Al-Harini -who lived after the year 300 A.H.- collected the Traditions narrated by Abu Hanifah in one volume which he organized according to the Sheikhs of Abu Hanifah.

Abu Al-Mu'ayyad Muhammad Ibn Mahmud Al-Khawarizmi who died in the year 650 A.H. collected a *Musnad* of Abu Hanifah and it was printed in Egypt in the year 1326 A.H., it had as many as 800 large pages. It was taken from fifteen *Musnads* which the great first scholars of the Traditions collected, he collected them according to the chapters of jurisprudence whilst deleting what was repeated and not repeating the chain of narration.

The exotericists severely attacked Abu Hanifah's school saying that it Persian philosophy which transformed jurisprudence which is a revealed law to a secular job. They

also said that one what must rely only on the texts, as for looking into meanings and causes this would cause disagreement and disturbance, and above all this it would be legislation through passions and opinions.

You see that this was a rejection of deduction through analogy as a source of legislation in the first place and an impugnation of the correctness of acting according to it. However, the correctness of acting based on a judgment made by analogy through deduction and opinion is something which the jurists and the scholars of the principles of religion firmly established. Acting according to deduction through analogy (*Qiyas*) is not something which Abu Hanifah uniquely invented between the Imams, we do not know nothing in the methods of deriving judgments used by Abu Hanifah which were not used by other diligent Imams in their derivation. It is narrated that he said: I take my ruling from Allah's Book if I find it, if I do not find it in the Book then I would seek it in the Sunnah of the Messenger of Allah (Prayers of Allah and His Peace upon him) and the correct Traditions which are spread in the hands of the trustworthy people. If I do not find anything in Allah's Book or in the hands of the Sunnah of the Messenger of Allah (Prayers of Allah and His Peace upon him) then I would take what his Companions said, taking what I please and leaving whom I please but without exceeding what they said to what someone else said. But when the affair reaches Ibrahim, Ash-Shu'abi, Al-Hassan, Ibn Sireen, Sa'id Ibn Al-Musayyib - and he recounted other men who were known for their diligence - then I have the right to make my own diligence as they made their own diligence.

The explanation Abu Hanifah himself made about his method should show you that the statement that "Abu Hanifah's jurisprudence is a Persian philosophy which turned jurisprudence into a secular job" is meaningless.

But there are certain things in which Abu Hanifah's point of view disagreed with that of the other diligent Imams which originates in his caution regarding the Traditions and all things which are narrated. The purpose of each school is, however, to reach the judgment, ruling, and verdict which is likeliest to be Allah's judgment.

One of the conditions devised by Abu Hanifah is that the Tradition must be renowned in the hands of trustworthy narrators, and that the narrator should not act in a manner contrary to what he narrates, and that it should not contain something with which the general population are afflicted so that working according to it would be difficult if not impossible.

He may leave deduction through analogy (*Qiyas*) due to a necessity, or puts working according to a general principle before it, or through an analogy which is better than it. This is called "preference" (*Istihsan*). There is not one of the four Imams who did not use deduction through analogy and preference in the meaning we have referred to, but they do not give it this name.

They may call it with other names such as "deeming proper" (*Istislah*). The only difference in this respect is that the Hanafi jurists went further in deduction through analogy and preference than others did.

Muhammad Ibn Al-Hassan said: Abu Hanifah used to debate with his companions about the analogies used for deduction and they would be able to argue against him in many of them, but when he would say: "I prefer" no one would be able to follow him as he would put so many issues into his preference that they would have no choice but to give up and submit to him.

Abu Hanifah was the first to occupy himself with assumptive jurisprudence, assuming cases and issues which did not occur yet and clarifying their judgment so that perhaps when these cases appear their judgment would appear, so the range and issued of jurisprudence became more extensive and comprehensive. He has many merits (Allah have mercy upon him), he died in the year 150 A.H.

The Most Famous between His Companions:

Abu Yussuf

He is Ya'qub Ibn Ibrahim Al-Ansari, he from the offspring of Sa'd Ibn Hantabah the renowned Companion. He was born in the year 112 A.H., when he grew up he learnt the Traditions, so he narrated from Hisham Ibn 'Urwah, Abu Is-haq Ash-Shaybani, and 'Ata' Ibn As-Sa'ib and their class. At the beginning he learned jurisprudence from Ibn Abi Layla and then he moved to learn from Abu Hanifah and he was the greatest of his students and his best aid just as Abu Hanifah supported him at the days when he was learning as Abu Yussuf's parents were poor. If it was not for Abu Hanifah he would not have learned.

He was a jurist, a scholar, and a *Hafiz* [one who learned the Quran and Traditions by heart]. Talhah Ibn Muhammad said in his history of the judges: He was the most knowledgeable of the people of his age, no one who lived at his time was above him and he had the utmost level of knowledge, judgment, leadership and measure. His affair was known and his merit was obvious.

Ibn Abd Al-Barr said: He would learn fifty Traditions in one lecture then he would rise and dictate them to the people. He had learned plenty of Traditions but the school of opinions of Abu Hanifah prevailed over him.

He was the first to write books about the Hanafi school and to spread his knowledge all over the lands. He was the one who made Abu Hanifah's school so well-established as to last to our present day, for when he was given the post of supreme judge in the Abbasid state which meant that he had the authority to appoint judges in all the regions of the state, he would employ the services of only the judges who adhered to the Hanafi school. This spread the school and supported it. He was the first to occupy the crucial post of supreme judge which is one of the rights of the Islamic Caliphate, meaning that the Caliph himself used to hold this position and he delegated it to him.

He was the supreme judge for three Caliphs: Al-Mahdi, Al-Hadi, and Ar-Rashid, the latter used to have a great respect for him. It is said that Abu Yussuf was the first to dedicate a special uniform for the scholars, people dressed similarly before that.

He had a great ability in diligence and jurisprudence, one day his Sheikh, Al-A'mash asked him about an issue, Abu Yussuf answered him, Al-A'mash asked him: Where did you get this from? He said: From the Tradition you narrated to us yesterday, and he dictated the Tradition to him. He said to him: I have learnt this Tradition before your parents even met each other, and I did not know its interpretation until now. Jurisprudence was the science he was most knowledgeable about, for he also had knowledge of Quranic interpretation, the conquests, the battles of the Arabs and other sciences. None among the companions of Abu Hanifah was like him.

Abu Yussuf travelled to Malik and took from him after he debated certain issues with him, then he returned to Iraq after having provided the Hijazis with his knowledge, and after having removed the traditional coldness which was between the Iraqi and Hijazi scholars.

The people of the Traditions considered him a traditionalist and praised him. Ibn Mu'in said: None among the people of the school of opinion has a greater number and more correct Traditions than Abu Yussuf. Ibn Mu'in, Ibn Hanbal, and Ali Ibn Al-Madini all agreed on his trustworthiness. Ibn Jarir At-Tabari said: Some people avoided narrating Traditions from him due to the fact that the school of opinion was prevalent over him coupled with his companionship with the Caliphs and having the post of the supreme judge.

He was given the post of supreme judge in the year 166 A.H. and remained in it until he died in the year 183 A.H. All of his written works have been lost except for his treatise of

tax collection and what Ash-Shafi'i (Allah have mercy upon him) cited in his "Kitab Al-Umm" both of which we've already referred to.

Muhammad Ibn Al-Hassan Ash-Shaybani

He is Muhammad Ibn Al-Hassan Ibn Farqad Ash-Shaybani, the freed slave of Shayban. His father Al-Hassan was from the Levant, he came to Iraq and Muhammad was born in Wasit in the year 122 A.H. but he was raised in Kufah. He became a pupil of Traditions, listening to it from Musa'ar, Malik, Al-Awza'i, and Ath-Thawri and he accompanied Abu Hanifah, although he did not spend a lot of time with him since Abu Hanifah died when he was still young.

He then learned from Abu Yussuf. He had great intelligence and acumen and showed a great ability until he became the authority on the Hanafi school even during the Abu Yussuf's life. This led to a certain alienation between the two which lasted even until Abu Yussuf died.

He then moved to Medina and took from Malik, he has his own narration of "Al-Muwatta'" [Malik's book] and he met Ash-Shafi'i (Allah have mercy upon him) in Baghdad. He read his books and debated many issues with him. These priceless debates are mentioned in Ash-Shafi'i's books. His meeting with Malik and his debates with Ash-Shafi'i had a great effect on his diligence and manner of derivation.

He was the most knowledgeable of people of his age in Allah's Book, he was well-versed in the sciences relating to the Arabic language and mathematics. Abu Ubaid is narrated

to have said: I have not seen anyone more knowledgeable of Allah's Book than Muhammad Ibn Al-Hassan.

Ash-Shafi'i is narrated to have said: I have taken from Muhammad a camel's load of knowledge, I have never met a fat man with a spirit lighter than his.

He was the one who spread Abu Hanifah's knowledge through his writing. Ahmad was asked once: Where did you get those delicate issues from? He said: From Muhammad's books. Several people learned from him and took knowledge and jurisprudence from him such as Abu Hafs, Abu Suleiman Al-Jawzjani, Musa Ibn Nusayr Ar-Razi, Muhammad Ibn Sama'ah, 'Issa Ibn Aban, Muhammad Ibn Muqatil and others.

He wrote many books, it is said that he wrote as many as 990 works all relating to religious sciences and studies. The Hanafi scholars rely on Muhammad Ibn Al-Hassan's book in the principles of the school. Ar-Rashid appointed him as the supreme judge, he went out with him in his journey to Khurassan and he died in Ar-Rayy and was buried in it in the year 198 A.H.

The Effect Abu Hanifah's Companions on His School

Those are the most famous of the men who spread the school of Abu Hanifah, writing down what he said and supporting many of his statements. They also made the greatest efforts in devising the issues of jurisprudence and answering them. Their relationship to Abu Hanifah was not one of an imitator to one who is imitated, but to learner to a teacher whilst remaining independent in what they give the

Fatwa about. So they did not stop at what Abu Hanifah ruled, but disagreed with him if there was a cause for disagreement.

It is a known fact that both Abu Yussuf and Muhammad changed many of their opinions which were adapted by the Imam when they learned what the people of Hijaz had. So they are diligent scholars who are related in this relation to the Imam as they used his principles and methods in diligence and *Fatwa*.

But their relationship to Abu Hanifah is not also the relationship of Ash-Shafi'i to Malik or Ibn Hanbal to Ash-Shafi'i. Each of the founders of the schools of jurisprudence had his own way of derivation which disagrees in certain respects with the ways of the others. None of them stuck to the methods of his predecessor the way the companions of Abu Hanifah stuck to his method. They do indeed disagree with him in many of the branches and the one issue may have four views: one of Abu Hanifah and three for each of his companions.

This originates in the fact that each of them may see traditions or meanings regarding the issue so one uses deduction through analogy, the other uses a Tradition which he believed to be true and so on.

Juristic Issues for the Hanafis

The issues of jurisprudence for the Hanafi School are divided into three parts:

- 1-Principles.
- 2-Rare occurrences.
- 3-*Fatwas*

The First Part, the Principles: are the issues which are called the exoteric aspect of narration. These are the verdicts and views narrated from Abu Hanifah and his companions such as Abu Yussuf and Muhammad and Zufar and the others who received knowledge directly from the Imam. Many of these issues are the statements of Abu Hanifah and his two companions: Abu Yussuf and Muhammad, or what some of them said. Imam Muhammad Ibn Al-Hassan - who as we said was one of Abu Hanifah's companions - collected the issues of the principles in six books which are known as the books of the exoteric narration.

The second part, the rare occurrences: these are the issues narrated from the Imam and his companions in other than the above mentioned six books.

The third part, the *Fatwas*: are the *Fatwas* provided by the later Hanafi diligent scholars about which nothing is said by the Imam and his companions. The first known book of Hanafi *Fatwas* is "Kitab An-Nawazil" by Abu Al-Laith As-Samarqandi.

Imam Malik and His Scholarly Life

He is Malik Ibn Anass Ibn Malik Ibn Abi Amer Al-Asbahi, indicating that he belongs to Thu Asbah which is a Yemeni tribe. One of his forefathers came to Medina and lived in it. His great grandfather is Abu Amer who was a notable Companion who attended all the battles with the Prophet (Prayers of Allah and His Peace upon him) except for Badr. It was also said that he is a Follower who attended both states, Malik's grandfather, who was also called Malik, was

one of the great Followers and the Companions and one of the men of knowledge among them. He was one of the four who carried Uthman at night to his grave.

Malik was born in Medina in the year 93 A.H., he sought knowledge from its scholars. The first scholar to whom Malik dedicated himself was Abd Ar-Rahman Ibn Hurmuz with whom he remained for a long time while taking knowledge from him and from others. He also took knowledge from Nafi' the freed slave of Ibn Omar and Ibn Shihab Az-Zuhri. His Sheikh in Jurisprudence was Rabi'ah Ibn Abd Ar-Rahman who was also known as Rabi'ah Ar-Ra'y. When he reached the age of seventeen he was placed as a teacher after his Sheikhs in Traditions and jurisprudence attested to his ability. It is narrated that he said: I did not sit for *Fatwa* and Traditions until seventy Sheikhs attested for me that I am worthy of this.

He became famous in all the countries, his fame reached all the horizons so people travelled to him from every direction and used to throng at his door and fight over it to seek knowledge. He kept on issuing *Fatwas* for people and teaching them for seventy years. All have agreed on his Imamate, greatness, religiousness, piety, and commitment to the Sunnah.

Ash-Shafi'i said: Malik is Allah's proof over His creation. Ibn Mahdi said: I have never met anybody with an intellect more complete or a piety greater than that of Malik. Hammad Ibn Salamah said: If I was told: Choose from Muhammad's nation (Prayers of Allah and His Peace upon him) an Imam from whom they would take knowledge then I would have

seen Malik as fitting and worthy for that post. Al-Laith Ibn Sa'd said: Malik is a pious man of knowledge, Malik's knowledge would make the ones who receive it safe.

He had a great reverence in the hearts of people so that no one would speak in his assembly. Al-Waqidi said: Malik's assembly was one of solemnity and forbearance. He was a heedful and noble man, his assembly had no argumentation, small-talk or raising voices. If he was asked about something he would simply answer without saying to the one who asked: Where did you see this issue?

If he went out to narrate Traditions he would bathe and dress in his best clothes and perfume himself. He was asked about this once and he said: I feel awed by the Tradition of the Messenger of Allah (Prayers of Allah and His Peace upon him). If someone would raise his voice in the assembly of relating Traditions he would say: Allah (Exalted is He) says: **"O ye who believe! Raise not your voices above the voice of the Prophet" [Surah of the Private Apartments: 2].**

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَرْفَعُوا أَصْوَاتَكُمْ فَوْقَ صَوْتِ النَّبِيِّ﴾ [الحجرات: 2]

He who raises his voice over the Tradition of the Prophet is like one who raises his voice over the voice of the Messenger of Allah (Prayers of Allah and His Peace upon him).

His Sheikhs and peers and those who came after them all agree that he is an Imam of the Traditions and that his narration is trustworthy. Al-Bukhari said: The most correct of the chains of relation is Malik, from Nafi' from Ibn Omar, then Malik from Az-Zuhri from Salem from his father, and

then Malik from Abu Az-Zinad from Al-A'raj from Abu Huraira.

He wrote down "Al-Muwatta'" which he spent forty years in writing and refining. At the beginning it was much bigger than it is now as it was said that it had ten thousand Traditions narrated in it, but he kept on refining it and removing the Traditions about which he had certain doubts and which the Imams did not put into effect so that the number of Traditions in it were reduced to just over five hundred. Malik said: Abu Ja'afar Al-Mansur met me during the pilgrimage and said to me: No man of knowledge is left except you and me and I am occupied with politics.

As for you, you have to write down a book about the Sunnah and jurisprudence to the people avoiding the indulgence of Ibn Abbas, the severity of Ibn Omar, the irregularities of Ibn Mas'ud and make it firm and well. Malik said: He taught me how to write, meaning that he showed him the middle way in it.

The book had a great appeal for the nation and especially its scholars even during the lifetime of Malik. The book was greatly admired and people began to travel to him to take it directly from him. Abu Ja'afar Al-Mansur - who was Ar-Rashid's grandfather - said: I wanted to hang this book of yours in the Ka'aba itself and send copies of it to all the states and make the people to work according to it to remove any space for disagreement. Malik said to him: Do not do that, the Companions dispersed in the horizons and narrated Traditions which are not the same as those of the people of Hijaz which I relied upon. People all have taken these Traditions so leave

them as they are. He said to him: May Allah reward you well O Abu Abdullah.

Another distinctive feature of Malik (Allah have mercy upon him) is that he had the leadership in both jurisprudence and the Traditions, for he had narrated the Traditions from Ibn Shihab Az-Zuhri and Rabi'ah Ar-Ra'y the jurist of the people of Medina, and Yahya Ibn Sa'id Al-Ansari and Musa Ibn 'Uqbah the Imam of the conquests, all of those are his Sheikhs.

His peers which narrated the Traditions from him include: Sufian Ath-Thawri, Al-Laith Ibn Sa'd, Al-Awza'i, Sufian Ibn 'Uyaynah, Abu Yussuf and others. The most notable of his disciples who related from him are Ash-Shafi'i, Ibn Al-Mubarak, and Muhammad Ibn Al-Hassan Ash-Shaybani among others. More than 1300 celebrated authors of the Islamic countries narrated from him. Many people also took jurisprudence from him such as Ibn Al-Qassim, Ibn Wahb, Ash-hab and others.

The Principles of His School:

Imam Malik (Allah have mercy upon him) based his school on twenty proofs as it is understood from what the scholars of that school said: first there is the direct text of the Book. Then its apparent aspect - which is the general case. Its proof - which is the concept of disagreement. Its concept - which is the concept of agreement. Its pointing out - which is pointing out the cause such as Allah's saying: **"for it is an abomination - or, what is impious"** [Surah of the Livestock: 145].

﴿فَأَنَّهُ رِجْسٌ أَوْ فِسْقًا﴾ [الأنعام: 145]

There are also the same five applied to the Sunnah, so these are ten. The eleventh is consensus, the twelfth is deduction through analogy, the thirteenth is what the people of Medina do, the fourteenth is the saying of the Companion, the fifteenth is preference, the sixteenth is judgment according to averting the pretext, the seventeenth is observation of the contrary view as Malik did observe it at time, the eighteenth is what the lawmaker liked without commanding it to be done (*Istihbab*), nineteenth: the general and public interests, and the twentieth is the laws of the nations before us.

Action according to these is in this order, Qadi 'Iyyad said, after he clarified the diligence according to what the intellect necessitates and which is attested to by the law: He must put Allah's Book before his proofs because the texts come first, then there is what is apparently understood by them, and so is the case with the Sunnah in the order of its *Mutawatir* and famous Traditions and Traditions narrated by singular individuals. Then there is the arrangement of their texts and concepts and what is understood by them. When there is nothing in the Book and the affirmed Sunnah then he must use consensus. When all of these principles are lacking then you must reach a deduction through analogies to cases present in them and deriving the ruling from there.

After proving these points Qadi 'Iyyad continued: If you look at the ways of those Imams and the way they took jurisprudence and their diligence in the affairs of the law you would see that Malik (Allah have mercy upon him) has

followed the ways of these principles, arranging their levels and what is to be perceived by them, putting the Book of Allah (Exalted is He) before any other Tradition, then placing Traditions before deduction and consideration, leaving the Traditions which the trustworthy narrators did not carry, or the ones which were not put into effect or disagreed with by the vast majority of the people of Medina. His discussion of problematic things and investigation of hard issues was the same one used by the good predecessors. He preferred following and hated innovation.

We understand from what Qadi 'Iyyad said that Imam Malik, generally, preferred to the way of the Hijazis in standing with the texts and traditions as much as possible, and disliked delving deep into the assumption of cases and imagining them before they take place.

We can deduce that the most distinctive feature of his way - which also had an effect in widening the gaps of disagreement between himself and others - are in the following issues:

1-The actions of the people of Medina was a proof for Malik, and one which takes a higher priority than deduction through analogy (*Qiyas*) and the Tradition narrated by a singular person as he considered it as more powerful than those two principles. His point of view was that their actions were like their own narrations from the Messenger of Allah (Prayers of Allah and His Peace upon him). The narration of a group from another group is more worthy of priority from the narration of one individual from another. Most of the jurists of the other countries disagreed with him about this as they

did not see the actions of the people of Medina as proof of anything as they are not subject to infallibility. Al-Laith Ibn Sa'd wrote a long letter to him to this effect, Ash-Shafi'i also discussed this in his "Kitab Al-Umm" as did Abu Yussuf in a book of his.

2-General and public interests (*Al-Masalih Al-Mursalah*) and seeking what is best for the general interests (*Istislah*). The meaning of the general and public interests are the ones which the law did not deem as false and about which there is no particular text. They all originate in the preservation of a general purpose of the law which is known to be a purpose through the Book, the Sunnah, or consensus and about which there is no disagreement with another public interest, then putting this first is the case for Malik. An example of this is beating one who is accused of theft to admit what he had stolen, Malik maintained that this is permissible and others did not as it is contradicted by another interest which is that of the beaten person, for he may be innocent and leaving the beating of a guilty man is a lesser evil than beating an innocent man. If prohibition of beating an accused man opens the door which makes getting money back difficult, then permitting it opens the door of tormenting an innocent man. Another example is the woman whose husband is missing and there are no news about him and whether he is alive or not, and she has waited for years and being single caused her harm. Malik judged that she is to marry after four years from the time when news of her husband ceased to reach her, putting the interest of the wife before that of the absent husband. Another example of this is when a woman is

divorced and she still did not reach menopause, but her period did not take place even after a long time. Malik ruled that she is to wait for three months after the passage of the period which is most likely to pass in a pregnancy (nine months) making it a total of one year. He took into account the interest of the wife so that she would not be harmed by the long waiting period, he put action according to this before the apparent aspect of Allah's saying: **"Divorced women shall wait concerning themselves for three monthly periods"** [Surah of the Cow: 228]. For she had not reached the age of menopause so as to wait according to those months

3-He considered the statement of the Companion, if he was one of the notable Companions and did not disagree with any Tradition which is suitable as a proof, as proof itself of a judgment. Al-Ghazzali in his "Al-Mustasfa" lengthily rejected this principle on the basis that the Companions are not subject to infallibility and mistakes may occur with them, so what they say does not necessarily provide something which qualifies as decisive proof.

4-The Sunnah: Malik did not put conditions to accept Traditions such as the Tradition being renowned in the affairs with which the general populace are afflicted, he does not reject the singular Tradition if it disagrees with deduction or if the narrator acts according to its opposite, he does not place deduction before the singular Tradition, and acts according to the Tradition which is narrated by the Followers without a Companion being present in its chain [*Al-Hadith Al-Murssal*]. The only condition he has in the singular Tradition is for it not to contradict the actions of the people of Medina. He

based the Traditions he narrated on what was narrated by the men of knowledge of Hijaz.

5-He used preference in many issues such as the guarantees given by professionals, by the owners of the bakeries, by the borrowers of hand mills, and the things entrusted to the owner of the public baths, and also accepting one witness and the oath of the claimant. Malik, however, did not use this as often as the Hanafis did.

His Trial

In the year 147 A.H. Malik was beaten with whips and his arms were racked, he remained afflicted with urinary incontinence until his death. Historians disagreed about the cause for this trial. It was said that the cause was that he produced a *Fatwa* that if one makes an oath of divorce [which means that if it takes place then the wife of the person who made the oath would be automatically divorced] under coercion then this oath is invalid. The Abbasids used to force people to make the oath that their wives would be divorced from them if they break the allegiance when they give that allegiance to them.

So the governor of Medina saw that Malik's *Fatwa* permits the people to break the allegiance and makes rebellion easy for them.

It was also said that the cause was that Ibn Al-Qassim asked him Malik if it was permissible to fight the rebels against the state. He said: If they rebel against someone like Omar Ibn Abd Al-Aziz then it is. He said: And if the ruler was not like him?

He said: Then let them, for Allah would cast His vengeance through one unjust party on another, and then He would take His vengeance from both. This *Fatwa* was the cause of his trial.

Malik resided in Medina all his life and never travelled to another country. This made most of his Traditions based on what was narrated by the Hijazis. People kept on travelling to him until he died in the year 179 A.H.

The Most Famous of His Companions:

Abd Ar-Rahman Ibn Al-Qassim

Abd Ar-Rahman Ibn Al-Qassim Al-Masri, a Maliki Jurist who remained Malik's student for twenty years until his understanding of jurisprudence matured. He did not mix the knowledge he received from Malik with anybody else's. He receives the Traditions from his Imam and from Al-Laith Ibn Sa'd Al-Masri and from Muslim Ibn Khalid Az-Zunji who was also Ash-Shafi'i's Sheikh. He took Traditions and jurisprudence from Asbagh Ibn Al-Faraj and Muhammad Ibn Salamah Al-Muradi.

Scholars maintained that he is trustworthy. Malik said that he is like a bag filled with musk. An-Nasa'i said that he is trustworthy. The Sheikh of the Andalusian judges, Yahya, testified that he is the most knowledgeable of people of Malik's jurisprudence and the one most trustworthy with it. Ibn Al-Qassim reached the level of absolute diligence so that Assad Ibn Al-Furat used to present the branches of jurisprudence which he received from Abu Hanifah's

companions in Iraq to him, and he would give his verdict about this according to Malik's school.

Ibn Al-Furat took these *Fatwas* to the western countries and spread them there, Sahnoun Al-Maghrebi Al-Maliki took those *Fatwas* from him and when he went to Egypt he presented them to Ibn Al-Qassim again who looked into them and corrected them. These issues were later arranged according to the topics of jurisprudence and written down, they became known between the Maliki books as "Al-Mudawwanah" [That which is written down].

In addition to his vast knowledge, Ibn Al-Qassim was renowned for his piety, Godliness, and asceticism so that he did not accept any rewards from the rulers. He died in Egypt in the year 191 A.H.

Abu Muhammad Abdullah Ibn Wahb

He is Abu Muhammad Abdullah Ibn Wahb Ibn Muslim Al-Masri the jurist, he was the freed slave of Rayanah who in her turn was the freed slave of Yazid Ibn Anass Al-Fahri. He was born in the year 125 A.H. and sought knowledge at the age of seventeen. He related from Malik, Al-Laith Ibn Sa'd, Sufian Ibn 'Uyaynah and others. He took jurisprudence from Malik and Al-Laith and then he went to Malik in the year 148 A.H., he remained in his companionship until Malik died.

He was a distinguished jurist until it was said that he is more knowledgeable even than Ibn Al-Qassim, but fear from Allah prevented him from expanding much in the affairs of the *Fatwa*. Malik used to address him in his letters to him by saying: To the jurist of Egypt and to Abu Muhammad the

Mufti. He did not do this to anybody else, he even said about him: Abu Muhammad is a man of knowledge and an Imam.

He was a trustworthy Traditionalist, Abu Zar'ah is reported to have said: I have looked into thirty thousand Traditions which Ibn Wahb narrated in Egypt and other than Egypt, and I do not know of any Tradition of his which I have seen which turned out to be baseless, he is trustworthy. Ibn Habban said: Ibn Wahb collected Traditions and wrote books. He is the one who preserved the Traditions of the people of Egypt and the people of Hijaz.

He was an extremely pious and devoted worshipper, he was offered the post of judge so he pretended to be mad and remained in his house. A book he wrote "Ahwal Al-Qiyamah" [The Calamities of the Day of the Resurrection] was read in his presence and he fainted and fell to the floor, he did not say a single word after than accident until he died a few days later. Al-Harith Ibn Miskin said: Ibn Wahb gathered jurisprudence, narration of the Traditions, and devoted worship.

He was loved and preferred by all the men of knowledge, Malik and others, he was called: The record of knowledge [*Diwan Al-'Ilm*].

Ibn Al-Qassim said: If Ibn 'Uyaynah dies then all people would direct themselves to Ibn Wahb. No one recorded knowledge the way he did and Sheikhs would submit to him the moment they see him.

He died, may Allah have mercy upon him, in the year 197 A.H.

Imam Ash-Shafi'i: His Early Life, the Places to which he travelled and his juristic influence in them

He is Abu Abdullah Muhammad Ibn Idriss Ibn Al-Abbas Ibn Uthman Ibn Shafi' Al-Hashimi Al-Muttalibi, one of the children of Al-Muttaleb Ibn Abd Manaf. His family tree meets with that of the Messenger of Allah (Prayers of Allah and His Peace upon him) in Abd Manaf. He was born in Gaza in the Levant in the year 150 A.H. Gaza was not his ancestral home, his father Idriss went there for a need he had and died and his son Muhammad was born there.

Two years after his father's death his mother carried him to Mecca, the homeland of his forefathers, and he was raised there an orphan in his mother's care. He then went to the tribe of Huthail in the desert, they were among the most eloquent of Arabs, so he learned plenty of their poems. He came back having acquired eloquence and literature, he then remained with Muslim Ibn Khalid Az-Zunji who was the *Mufti* of Mecca and he learned jurisprudence from him until he permitted him to issue his own *Fatwas* at the age of fifteen.

He then travelled to Malik, he himself relates: When I returned to Mecca from Huthail I would cite poems and stories of the days of the Arabs, a man from Zubayd [Yemen] passed by me and said: I am amazed that you have such eloquence and intelligence and yet do not have an knowledge of jurisprudence, for if you do you would be the master of the people of your time. I said: Is there anybody whom I can go to for this purpose? He said: There is Malik, the master of all the Muslims today. This touched my heart, I borrowed "Al-

Muwatta'" and learned it by heart in nine nights, then I went to Malik and learned Al-Muwatta' directly from him.

Malik used to praise his ability to learn and understand and he gave him a lavish gift when he travelled from his companionship. He also narrated the Traditions from Sufian Ibn 'Uyaynah and Al-Fudail Ibn 'Iyyad and his uncle Muhammad Ibn Shafi' and others. Many of the notables of the nation praised him, his merits are well known.

His Sheikh, Ibn 'Uyaynah, said about him: He is the best of the lads of his day. If any affair of *Fatwa* or the interpretation of the Quran would come to Sufian he would direct them to him. Ahmad said about him: He is the most knowledgeable of people about Allah's Book and the Sunnah of His Messenger. He also said about him: I did not come to recognize which Traditions abolish which Traditions until I sat with Ash-Shafi'i.

When Ash-Shafi'i reached maturity he was forced to find a job to maintain himself. Mus'ab Ibn Abdullah Al-Qurashi, the judge of Yemen, helped him to find work in Yemen. He took his post and looked after it well. But then in the year 184 A.H. he was accused of Shi'ism and he was taken to Iraq. If Ash-Shafi'i was convicted of this accusation then he was going to be executed, but Allah aided him through Al-Fadl Ibn Ar-Rabi' [who was Ar-Rashid's chamberlain] who defended him until his innocence was proven.

One of the things which Ash-Shafi'i said to Ar-Rashid to defend himself from this accusation: Would I leave he who says that he is the Prophet's cousin [Ar-Rashid] and follow one who says that he is his slave [the Shiite Imam]? This

statement left a good effect in Ar-Rashid's mind and he ordered his release and gave him a reward.

Ash-Shafi'i then decided to look into what the Iraqi scholars have to offer in terms of jurisprudence. So he accompanied Abu Hanifah's companion, Muhammad Ibn Al-Hassan Ash-Shaybani and read the books of the Iraqi jurists. Add to this the Hijazi way which he was already well-versed with. He had several debates with Muhammad Ibn Al-Hassan, those were reported to Ar-Rashid and he was pleased with them.

One of these cases is that he entered into the presence of Muhammad Ibn Al-Hassan while the latter was explaining how the text of the Quran may not be added to with a singular Tradition, deeming the method of the people of Medina flawed as they accept in judgment one witness and the oath of the accuser that this is an addition to Allah's Book which stated that judgment is to take place through two acceptable witnesses or one man and two women. Ash-Shafi'i said: Is it affirmed to you that one may not add to the Book with a singular Tradition?

He said: Yes. He said to him: Then why do you say that will for the one who inherits is impermissible based on the Tradition in which the Prophet (Prayers of Allah and His Peace upon him) says: "No will is to be made to one who is to inherit" while Allah (Exalted is He) says: **"It is prescribed, when death approaches any of you, if he leave any goods that he make a bequest to parents and next of kin"** [Surah of the Cow: 180].

﴿ كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ
وَالْأَقْرَبِينَ ﴾ [البقرة: 180]

And he mentioned several other such proofs and Muhammad was silenced. Ash-Shafi'i's books are filled with those debates. Then Ash-Shafi'i returned to Meccan and mingled with its scholars and the scholars of the other countries who came to benefit or to perform the pilgrimage.

His old school

In the year 195 A.H. and during the Caliphate of Al-Amin, Ash-Shafi'i returned to Iraq. This time many of the scholars of Iraq came into contact with him abandoning the school of the opinion which they originally adhered to. At this period of time he wrote his old book which is called "Al-Hujjah". Four of his great Iraqi companions narrate it from him, those are: Ahmad Ibn Hanbal, Abu Thawr, Az-Za'farani, and Al-Karabissi. Az-Za'farani was the most masterful in narrating it among them.

At that time he resided in Iraq for two years before returning to Hijaz having become renowned in Baghdad, many scholars used his method. In the year 198 A.H. he went to Iraq for the third time and resided there for several months before travelling again to Egypt where he was the revered guest of Abdullah Ibn Abd Al-Hakam. At that time Malik's method was prevalent in Egypt and most of the scholars of Egypt used it. Abdullah Ibn Al-Hakam and Ash-hab were the two remaining companions of Malik who have heard from him and narrated his Traditions and methods.

His new school

Ash-Shafi'i's talents and abilities appeared to their fullest extent in Egypt, they are what is called: the new sayings and which are collected in "Kitab Al-Umm". This is the school to which Ash-Shafi'i changed his methods in Egypt.

The cause of that change was that when he came to Egypt and came into contact with its scholars and heard the Traditions and jurisprudence they had, and also when he saw the habits and the social states of the people which were totally different from what he had seen and heard in Hijaz and Iraq so the aspects of diligence changed for him in some issues and this became known as the new school.

Ash-Shafi'i attained fame in all the countries, people came to him from the Levant, Yemen, Iraq and all directions to learn from him and narrate from him and to hear his books from him and to take them directly from him. He remained in Egypt spreading knowledge and occupying himself with it in its old mosque until his death.

Ash-Shafi'i had an extremely loud voice, a good ability to express himself eloquently. His proof was clear and his arguments were powerful. He had reached the utmost level of generosity and courage and good opinion in addition to correct insight and good manners. Dawud Ath-Thahiri said: Ash-Shafi'i (Allah have mercy upon him) was a beacon for the bearers of the Traditions and their narrators, he who attains some of his lucidity would win any argument.

Ar-Rabi' said: If you had seen Ash-Shafi'i you would not have said that those are his books, his tongue by Allah was greater than his books and his speech was a credit to

language. This is why Ibn Al-Hajib said in his book: This is Ash-Shafi'i's dialect just as they say that it is the dialect of Tamim and the dialect of Rabi'ah.

Al-Asma'i with all his greatness in language read the poems of the Huthail tribe poets from Ash-Shafi'i. He had good knowledge of the Arabian family trees, the days and states of the Arabs, in addition to having composed some good poetry himself.

The Principles of His School

Ash-Shafi'i's principle in diligence is what he said in "Al-Umm", this is the following: The origin is the Quran of the Sunnah, if there was nothing in them then deduction based on them. If a Tradition about the Messenger of Allah (Prayers of Allah and His Peace upon him) is narrated and the chain of narration of it is correct then this is the ruling. Consensus is greater than a singular Tradition, the Tradition is to be understood in its exoteric aspect, if it can take several meanings then the one nearest to its exoteric aspect is the one which should be considered.

If traditions differ about a ruling then the one with best chain of narration is the one worthiest of being taken into consideration.

The Traditions whose chains of narration are disconnected are not to be considered except those related by Ibn Al-Musayyib. No principle is to be deduced from another principle, and the principle is not to be questioned by how and why, only the branches are to be questioned why, if their deduction is true then they are true and proof stands with it.

His new school

Ash-Shafi'i's talents and abilities appeared to their fullest extent in Egypt, they are what is called: the new sayings and which are collected in "Kitab Al-Umm". This is the school to which Ash-Shafi'i changed his methods in Egypt.

The cause of that change was that when he came to Egypt and came into contact with its scholars and heard the Traditions and jurisprudence they had, and also when he saw the habits and the social states of the people which were totally different from what he had seen and heard in Hijaz and Iraq so the aspects of diligence changed for him in some issues and this became known as the new school.

Ash-Shafi'i attained fame in all the countries, people came to him from the Levant, Yemen, Iraq and all directions to learn from him and narrate from him and to hear his books from him and to take them directly from him. He remained in Egypt spreading knowledge and occupying himself with it in its old mosque until his death.

Ash-Shafi'i had an extremely loud voice, a good ability to express himself eloquently. His proof was clear and his arguments were powerful. He had reached the utmost level of generosity and courage and good opinion in addition to correct insight and good manners. Dawud Ath-Thahiri said: Ash-Shafi'i (Allah have mercy upon him) was a beacon for the bearers of the Traditions and their narrators, he who attains some of his lucidity would win any argument.

Ar-Rabi' said: If you had seen Ash-Shafi'i you would not have said that those are his books, his tongue by Allah was greater than his books and his speech was a credit to

language. This is why Ibn Al-Hajib said in his book: This is Ash-Shafi'i's dialect just as they say that it is the dialect of Tamim and the dialect of Rabi'ah.

Al-Asma'i with all his greatness in language read the poems of the Huthail tribe poets from Ash-Shafi'i. He had good knowledge of the Arabian family trees, the days and states of the Arabs, in addition to having composed some good poetry himself.

The Principles of His School

Ash-Shafi'i's principle in diligence is what he said in "Al-Umm", this is the following: The origin is the Quran of the Sunnah, if there was nothing in them then deduction based on them. If a Tradition about the Messenger of Allah (Prayers of Allah and His Peace upon him) is narrated and the chain of narration of it is correct then this is the ruling. Consensus is greater than a singular Tradition, the Tradition is to be understood in its exoteric aspect, if it can take several meanings then the one nearest to its exoteric aspect is the one which should be considered.

If traditions differ about a ruling then the one with best chain of narration is the one worthiest of being taken into consideration.

The Traditions whose chains of narration are disconnected are not to be considered except those related by Ibn Al-Musayyib. No principle is to be deduced from another principle, and the principle is not to be questioned by how and why, only the branches are to be questioned why, if their deduction is true then they are true and proof stands with it.

So he sees the correct Sunnah as the Quran itself, both must be followed, he does not make the same prerequisites which Abu Hanifah did, meaning things such as the Tradition being famous if affliction with its opposite is general and the other things, he also did not take into account the prerequisite which Malik devised which is for the Tradition not to disagree with the action of the people of Medina, the only condition he had was correctness and being connected through a proper chain of relation he strongly defended action according to the one correct Tradition, this defense brought him great popularity among the people of the Traditions who had the upper hand, this is why the people of Baghdad called him: "the supporter of the Sunnah". Az-Za'farani said: The people of the Traditions were asleep until Ash-Shafi'i came and woke them up until they became awake. Through this Ash-Shafi'i gained the support of the greatest number of people of his age, and this had a great effect in spreading his school and its transmission, he took into account the Traditions related by other than the Hijazis as he did not consider any condition in them except correctness.

He does not consider the disconnected Traditions as proof except the disconnected Traditions of Ibn Al-Musayyib as all agree they are correct.

Ash-Shafi'i was the first to question the correctness of the disconnected Traditions, disagreeing with Ath-Thawri, Malik, and the Hanafis in this issue as all of them considered them as proof.

He did not consider the statements of the Companions as proof as they can be the result of a diligence which can also

be mistaken, and he did not consider that a Companion or anyone else or the people of a country or a region leaving action according to a Tradition a cause to question the Tradition as it can simply be caused by heedlessness of it and not learning it, for it was often the case that the Companions performed their own diligence about issues about which they themselves later heard Traditions which either agree with their diligence, in which case they were happy, or which prove their diligence wrong and they would simply change their ruling then.

He rejected the preference (*Istihsan*) which the Malikis and the Hanafis use, he denies it altogether saying: He who "prefers" plays the role of lawmaker. He dedicated an entire book to annulling it.

He only used deduction through analogy (*Qiyas*) if its cause was strongly regulated. He rejected the idea of public or general interests and rejected that the action of the people of Medina is proof of anything, he dedicated a lengthy section in "Al-Umm" to this rejection.

Ash-Shafi'i had in his possession the jurisprudence of both the Hijazis and the Iraqis, in addition to the eloquence of the Bedouins, the strength of argument, good speech, powerful debating skills and he became singular in his time, so it is not wonder that people followed his way and loved it and that his school had a great popularity without having to rely on the support of a ruler.

He died, may Allah have mercy upon him, in Egypt in the year 204 A.H.

The Most Famous of Ash-Shafi'i's Companions Isma'il Ibn Yahya Al-Muzni

He is Abu Ibrahim Isma'il Ibn Yahya Al-Muzni Al-Masri. He was born in the year 175 A.H., he grew up seeking knowledge and the relation of Traditions. When Ash-Shafi'i came to Egypt in the year 199 A.H. he came into contact with him and learned jurisprudence at his hands until Ash-Shafi'i bore witness to him saying: Al-Muzni is the one who supported my school. Abu Is-haq Ash-Shirazi also attested to his merit saying: He was an ascetic, a diligent scholar, powerful in his debates, ever diving for the meanings. The Shafi'is consider him an absolutely diligent scholar due to the choices with which he disagrees with his Imam. One of his books upon which the Shafi'is rely upon is his "Al-Mukhtassar As-Saghir" [The Smaller Summary] through which he spread the Imam's school as the Shafi'is often taught it and commented on it. He has two other books: "Al-Jami' As-Saghir" and "Al-Jami' Al-Kabir".

Generally speaking, Al-Muzni is considered as the most eloquent and intelligent of Ash-Shafi'i's companions, and the one who made the greatest effort to write down the principles of his school

Al-Buwaytti

He is Abu Ya'qub Yussuf Ibn Yahya Al-Buwaytti, from Buwaytt which is a village in upper Egypt. He is the greatest of Ash-Shafi'i's Egyptian companions and his successor there after him. He learned jurisprudence at the hand of Ash-Shafi'i's hands and related the Traditions from him, and he

also related from Abdullah Ibn Wahb and others. Ash-Shafi'i used to rely on him in the affairs of the *Fatwa* and direct people to him if a question comes to him. He wrote his well known summary during the lifetime of Ash-Shafi'i and he read it to him in the presence of Ar-Rabi' and this is why it is related from Ar-Rabi'. When Ash-Shafi'i was near his death they said to him: Who is to sit after you in your assembly? He said: There is no one worthier of sitting in my place than Abu Ya'qub, no companion of mine knows more that he does. Many Imams who dispersed in the lands were taught by him, they spread what Ash-Shafi'i taught. Ar-Rabi' said about him: I have not seen anybody more capable of using Allah's Book as proof than Abu Ya'qub Al-Buwaytti. The Hanafi judge of Egypt, Ibn Abi Al-Laith used to envy him and he complained to the Caliph, Al-Wathiq Bi Allah, at the days when Allah tried the nation with the Caliphs supporting the view of the creation of the Quran. The Caliph ordered him taken to Baghdad with other men of knowledge, he was carried in chains and the Caliph wanted him to endorse this opinion and he refused. So he was imprisoned in Baghdad until he died in the year 231 A.H.

During his imprisonment, he would wash his clothes every Friday then bathe himself, when the call for prayer rises he would go to the prison door and the jailor would say to him: Where are you going? He would say: To answer Allah's caller. The jailor would say: Go back, may Allah have mercy on you. Abu Ya'qub would say: O Allah, I have answered Your caller and they prevented me. He would hold a vigil for the entirety of the night in recital and prayer, always moving

his lips with Allah's remembrance. He was austere, fasting often, reciting often, and always devoted to actions of goodness.

The Fourth Imam: Ahmad Ibn Hanbal

His Academic Beginnings and the Principles of His School

He is Abu Abdullah Ahmad Ibn Hanbal Ibn Hilal Ibn Assad Ash-Shaybani Al-Marouzi Al-Baghdadi. His mother went out of Merv while she was pregnant with him and he was born in Baghdad in the year 164 A.H., he was raised there and he spent plenty of his time studying the Sunnah and learning it until he became the Imam of the Traditionalists in his age.

He travelled to Kufah, Basra, Mecca, Medina, the Levant, and Yemen. He narrated from Hashim, Ibrahim Ibn Sa'd, Sufian Ibn 'Uyaynah, and others. He learned jurisprudence from Ash-Shafi'i when he came to Baghdad and he was the greatest of his Baghdadi students before becoming an independent diligent scholar himself. He was distinguished among his peers with his ability to learn the Prophetic Sunnah and his defense of it and collecting what is dispersed from it. His book "Al-Musnad" which contains more than forty thousand Traditions suffices to show you the proof of this. He was given an ability to learn and memorize which others did not have, Abu Zar'ah said: I have made an inventory of Ahmad's books on the day he died and they were the equal of twelve camel loads, he had learned all this by heart. His son

Abdullah said: My father said to me: Take any of Waki's books, if you wish to ask me about what was said so that I would tell you the chain of narration, or what about the chain of narration so that I would tell you what was said. He was singular in his piety and asceticism in his time, he and Ath-Thawri attained precedence and fame in both of those respects. Ash-Shafi'i said: I went out from Baghdad and I have not left anyone with more jurisprudence, piety, asceticism, or knowledge from Ibn Hanbal.

Ahmad went through a severe trial at the times of the Caliphs Al-Ma'moun, Al-Mu'tassim, and Al-Wathiq as he was whipped, imprisoned, intimidated, and threatened with death as they wanted him to endorse the view of the creation of the Holy Quran. He flatly refused this and his resolve was never weakened with the harm which was afflicted on him, through this he became viewed as a leader by a great number of Muslims so that if Ahmad would wish to lower someone's measure he would not be raised and if he wished raise someone's measure he would not be lowered, if he scolds someone he would become an outcast to the extent that people would not attend his funeral, if he praised someone he would be liked and respected.

His firmness and observation of his belief was one of the causes this affliction was removed from himself and the Muslims, Ibn Al-Madini said: Allah has protected Islam through two men: Abu Bakr on the day of the apostasy, and Ibn Hanbal at the day of the trial. Bishr Al-Hafi was asked when Ahmad was whipped in the trial: If you would stand up

his lips with Allah's remembrance. He was austere, fasting often, reciting often, and always devoted to actions of goodness.

The Fourth Imam: Ahmad Ibn Hanbal

His Academic Beginnings and the Principles of His School

He is Abu Abdullah Ahmad Ibn Hanbal Ibn Hilal Ibn Assad Ash-Shaybani Al-Marouzi Al-Baghdadi. His mother went out of Merv while she was pregnant with him and he was born in Baghdad in the year 164 A.H., he was raised there and he spent plenty of his time studying the Sunnah and learning it until he became the Imam of the Traditionalists in his age.

He travelled to Kufah, Basra, Mecca, Medina, the Levant, and Yemen. He narrated from Hashim, Ibrahim Ibn Sa'd, Sufian Ibn 'Uyaynah, and others. He learned jurisprudence from Ash-Shafi'i when he came to Baghdad and he was the greatest of his Baghdadi students before becoming an independent diligent scholar himself. He was distinguished among his peers with his ability to learn the Prophetic Sunnah and his defense of it and collecting what is dispersed from it. His book "Al-Musnad" which contains more than forty thousand Traditions suffices to show you the proof of this. He was given an ability to learn and memorize which others did not have, Abu Zar'ah said: I have made an inventory of Ahmad's books on the day he died and they were the equal of twelve camel loads, he had learned all this by heart. His son

Abdullah said: My father said to me: Take any of Waki's books, if you wish to ask me about what was said so that I would tell you the chain of narration, or what about the chain of narration so that I would tell you what was said. He was singular in his piety and asceticism in his time, he and Ath-Thawri attained precedence and fame in both of those respects. Ash-Shafi'i said: I went out from Baghdad and I have not left anyone with more jurisprudence, piety, asceticism, or knowledge from Ibn Hanbal.

Ahmad went through a severe trial at the times of the Caliphs Al-Ma'moun, Al-Mu'tassim, and Al-Wathiq as he was whipped, imprisoned, intimidated, and threatened with death as they wanted him to endorse the view of the creation of the Holy Quran. He flatly refused this and his resolve was never weakened with the harm which was afflicted on him, through this he became viewed as a leader by a great number of Muslims so that if Ahmad would wish to lower someone's measure he would not be raised and if he wished raise someone's measure he would not be lowered, if he scolds someone he would become an outcast to the extent that people would not attend his funeral, if he praised someone he would be liked and respected.

His firmness and observation of his belief was one of the causes this affliction was removed from himself and the Muslims, Ibn Al-Madini said: Allah has protected Islam through two men: Abu Bakr on the day of the apostasy, and Ibn Hanbal at the day of the trial. Bishr Al-Hafi was asked when Ahmad was whipped in the trial: If you would stand up

and talk as he did? He said: I am not strong enough, Ahmad stood the stands of the Prophets.

Al-Marouzi came to him one day and said: O teacher, those people have presented you to be whipped and Allah says: "Nor kill (or destroy) yourselves" [Surah of the Women: 29].

﴿وَلَا تَقْتُلُوا أَنْفُسَكُمْ﴾ [النساء: 29]

He said: O Marouzi, look out and look. Al-Marouzi went out and looked into the yard before the Caliph's house, he saw many people holding papers and pens in their hands, he said to them: What are you doing? They said: We are waiting for what Ahmad will do so as to write it down. He returned to Ahmad and told him what he saw, Ahmad said: O Marouzi, would I misguide all of those people? No, I would rather die than misguide them. Al-Marouzi said: This is a man who found his own soul easy to give away for the sake of Allah.

He also was tested at the days of the Caliph Al-Mutawakkil with being revered and honored and with the world being extended to him, he did not rely on it however, and he did not move from his first state. He and his companions were accused of believing in Divine incarnation [that the Divine Essence is present with its entirety in one particular place], Anthropomorphism, and believing that Allah exists in a particular direction as he took the highness and "being above" mentioned in the texts as they are, they also said that he believed that letters and sounds reciting the Quran are uncreated. All of this is untrue, they merely rely on the creed of predecessors who submit and do not interpret, and they believe in the Divine establishment over the Throne

and the hand and highness and so on that they are Qualities whose reality is unknown whilst Allah (Exalted is He) its Transcendent from the appearances of contingency.

The Principles of His School

His principle in diligence is close to that of Ash-Shafi'i as he had learned jurisprudence from him. Ibn Al-Qayyim said in his "A'lam Al-Muwaqqi'in": The *Fatwas* of Ahmad Ibn Hanbal are based on principles:

(First): Following the texts: The Quran and the connected Tradition, if any of those exist he would produce the *Fatwa* according to it without turning to those who disagree with it or who disagreed with it no matter who they are. For this reason he did not consider Omar's disagreement with the Tradition of Fatimah the daughter of Qayss and did not put any action, opinion, deduction through analogy, or the statement of a Companion over a correct Tradition, nor did he put the lack of knowledge of a disagreement which many people call consensus before the correct Tradition. Ahmad maintained that consensus is a false claim and did not accept putting it before the correct Tradition.

(Second): The *Fatwas* of the Companion: if he finds a *Fatwa* for any of them which no other Companion disagree with he did not go beyond this, but without saying that this is consensus, he did not put any action, opinion, or deduction before this.

(Third) If the Companions disagree on a certain verdict then he would choose the view closest to the Book and the Sunnah without going beyond what they say, if he was not

able to find a verdict which is closer he would cite the disagreement without firmly following any of the two views.

(Fourth) Considering the disconnected and weak Tradition if there was nothing to contradict it in the matter it is discussing. The weak here does not mean the traditions which are proven to be false or the ones who contain one whose truthfulness is subject to doubt so that using him is unacceptable, for him a weak Tradition applies to ones which most of Traditionalists would consider either correct or which has a good chain of narration since he did not divide the Traditions into correct, good, and weak, but only to correct and weak whilst weakness of the Tradition for him is divided into several levels. If no other text, or statement of a Companion, or consensus to it opposite contradict this weak Tradition then acting according to it has priority over deduction.

(Fifth) Deduction through Analogy (*Qiyas*). This is used by him in the cases of extreme necessity so that if he does not find a Tradition, or the statement of a Companion, or a weak or disconnected Tradition about the affair, he would then use it. He would desist, however, if proofs to the verdict contradict each other. He had an extreme dislike and a tendency to reject issuing a *Fatwa* about an affair about which there is no text from the predecessors. He accepted the *Fatwas* of the jurists of the Tradition and Malik's companions and pointed to them at times, whilst turning away from the *Fatwas* of those who turn away from the Traditions. This is a summary of what Ibn Al-Qayyim said to this effect.

Ahmad Ibn Hanbal (May Allah have mercy upon him) died in Baghdad in the year 241 A.H.

The Fewness of Ibn Hanbal's Followers and the Causes of This

It is known about Ahmad's school that it strongly relied on narration and avoided as much as possible to exceed the texts of the law or what is cited about the Companions in *Fatwas*, it would be rare for Ahmad's school to go deep into diligence and using deduction through analogy except in cases of necessity as you have known during the discussion of the principles of his school. This meticulous preservation does not usually attract people to rely upon it as they find in other schools a more expansive way - whether through deduction through analogy, preference, the public interests or the various other ways devised by the other schools - of handling the occurrences which take place with them in a life which was growing increasingly sophisticated. Add to this the fact that Ahmad's followers in the fourth Hijri century increased in both number and their power, they used their power and force to support their school and creed, they began to use violence against people in the things which they saw as disagreeing with the law, they did not distinguish in their severity between the commoners and the elite, they went as far as performing hostile acts to the Shafi'is in Baghdad, going far in those hostilities until they caused quite a riot in Baghdad which brought pain to the general populace of the city and raised the dislike of the rulers for them. The Caliphs stood to resist them and to reject their views, threatening them

severely if they do not cease from picking fights with others. This period served the school badly as it showed their inflexibility causing people to turn away from them.

You still see manifestations of this reputation of the Hanbali rigidity until the present day with the common people who did not attain the knowledge to find out the origins of this reputation while the school in itself is a good example of the tolerance in religion and a mirror of the law free from impurities, what is known about its Imam suffices to show the falsity of what is attributed to this school.

Add to these two causes a third one as we see: That school of Ahmad did not find a government which adapted it and worked on spreading it before the Saudi government, the Shafi'i school in Egypt for instance found a strong supporter in the Ayyubids for instance. The Hanbali school however remained in a closed circle of the few followers in the Islamic countries until the Saudi government adapted it in Hijaz and it became the prevalent school there.

The fact that Ahmad and his companions did not expand much in deduction also finds its roots in their adamant care to collect the texts and the statements of the Companions, these permit people to resolve many aspects of their lives through jurisprudence. This is apparent in our present day even, for if the men of Islamic legislation find themselves in need of a text or find the resolution of the affairs of the people difficult, they would seek the exit from Ahmad's school, deriving narration from it, perhaps this would remove the effects of the old reputation from the minds of people.

The Fifth Stage From the Middle of the Fourth Hijri Century until the Fall of Baghdad in 656 A.H.

The State of Legislation at that Stage

At that stage, the Islamic regions were divided into several parts, a ruler stood over each part and called himself "the prince of the faithful". Weakness and decadence ensued at the trail of this division as these countries fought each other, seditions and afflictions increased between them, the nation was divided and all the strings of unity were severed, enmity and division took the place of brotherhood and unity. It suffices for you to see that the Fatimids used to send their own secret preachers to call to their cause in the Abbasid regions, while the Abbasids would initiate assemblies to show that the Fatimids are not the offspring of Fatimah Az-Zahra' writing reports and records to that effect which the men of knowledge and the noble men would sign whether willfully or not.

Dynasties and different modes of government began to stand at the ruins of each other, so the Seljuks stood after the Buyids, the Atabiks after the Seljuks, and the Ayyubids after the Fatimids, add to this that at the beginning of the fifth Hijri

century the crusaders began launching their great wars and all the great seditions which came along with them.

In this cloudy atmosphere where the hurricane of all these events destroyed the relative peace and unity previously enjoyed by the region the scholars and men of knowledge delivered their message and tried their best to be up to their trust, many of the great scholars and intellectual appeared. Nevertheless, those abysmal circumstances and strong factors of disturbance affected the movement of scholarly and academic development, replacing its strength with weakness stopping its advancement and making its activity falter, it has killed the spirit of intellectual independence within the men of knowledge, so after the death of Muhammad Ibn Jarir At-Tabari in 531 A.H. you do not find anyone who had the spirit of diligence so as to derive judgments and *Fatwas* and choosing them himself, taking his rulings from the Book and the Sunnah without being limited to the opinion of any of the Imams.

They did not recognize their own worth at that time as they did not believe in themselves as able of looking into the sources and deriving from them, contenting themselves with imitation and becoming mere additions to the jurisprudence of Abu Hanifah, Malik, Ash-Shafi'i and Ibn Hanbal and their like whose schools still existed at the time. They confined themselves to certain circles within these schools whose circumference they did not exceed. Each one of them contented himself with one school of jurisprudence which he did not exceed also, dedicating his efforts to the support and of this school in generality and in detail. As Qadi 'Iyyad

pointed out in "Al-Madarik", what the Imam of each of those jurists said would have the same power as the words of the lawmaker. At the previous ages, the seeker of juristic knowledge would study the Quran and then the Sunnah, but at that age he would study the books of a particular Imam and study his way through which he derived the rulings. Once he finishes this study he would be considered one of the jurists and men of knowledge. Books of that period became confined to being summaries of older texts, a commentary on an older text, collecting what was dispersed in various books. None of them permitted himself to produce his own *Fatwa* about an issue which may disagree with what his Imam produced out of extreme trust in those Imams to the extent that Ubaidullah Al-Karakhi [a Hanafi scholar] said: Each Verse or Tradition which disagrees with what our companions maintain are either subject to interpretation of annulment. There is a world of distance between this statement and what Abu Hanifah himself said about the jurists who came before him: They are men and we are men. And Malik's saying: Each person's statements is to be taken or rejected except for the Messenger of Allah (Prayers of Allah and His Peace upon him).

Through this extreme and narrow minded following of the schools of the predecessors the jurists placed barriers between the nation and the texts of the Quran and the Sunnah. The law became the texts and statements of the jurists so that the highest level which their effort may reach was the understanding of the texts of the Imams and their principles, as for diligence it was neglected until it was over with the end of those who performed by the early fourth Hijri century.

There were among the scholars of this age those who were not less than the previous Imams in their knowledge of the principles of legislation and the ways of derivation, but they simply did not have the courage to be independent, and they also did not have the same large margin of freedom the predecessors had, they chained themselves with their own hands, placing barriers to themselves which prevented them from going on with the path of diligence. Abu Muhammad Abdullah Ibn Yussuf Al-Juwayni began writing a book which he called "Al-Muhit" in which he intended not to confine himself to schools, and to stop at the principles of the sources of the law without exceeding them and avoiding any bias towards the schools. Al-Hafiz Abu Bakr Al-Bayhaqi got hold of three volumes of that work, he criticized certain points relating to the Traditions in it, indicating that the one who takes the Traditions for him is Ash-Shafi'i (Allah be pleased with him), and that he did not consider the Traditions mentioned by Al-Juwayni in his book because of flaws known by the one who is well-versed in the arts of the Traditionalists. When Al-Bayhaqi's message reached Al-Juwayni he said: This is the blessed man of knowledge. He supplicated for him and did not continue writing his book.

So you see that he did not perform diligence as he did not have the level of being an Iman in Traditions despite the fact that Ash-Shafi'i himself relied in the correction of the Traditions on Traditionalists who dedicated themselves to him to distinguish correct Traditions from weak or false ones.

You will see how this attitude played a major role in the prevalence of imitation in the sixth stage when we cite to you

the causes of this prevalence, for many of the people who had the worth of diligence become complacent and content with imitation although the commoners of those ages had those among them who criticized imitation and found proofs for their criticism and refused to imitate. An instance of this is that one of the scholars entered into the presence of one of the Abbasid Caliphs and found a singer there, the scholar said: Malik (Allah have mercy upon him) forbade listening to singing. The singer said: Allah did not command us to worship Him through what Malik said and did not force us to imitate him, show us one proof from the Quran and the Sunnah, Allah (Exalted is He) says: **"And follow the best of (the courses) revealed to you from your Lord"** [Surah of the Throngs: 55].

﴿وَاتَّبِعُوا أَحْسَنَ مَا أُنْزِلَ إِلَيْكُمْ مِنْ رَبِّكُمْ﴾ [الزمر: 55]

It is related in Ibn Al-Arabi's "Al-Ahkam" that Abu Al-Fadl Al-Muraghi lived in Baghdad for five years seeking knowledge, when he attained part of what he came for and decided to leave, he went to the bread merchant to buy his food from him. Whilst he is there he heard him say to another merchant: Have you not heard the preacher say: Ibn Abbas permitted one to break an oath through saying: 'if Allah wills it' even if the exception was spoken one year after the oath? My mind was occupied with this and I thought much about it, if that had been true then Allah would not have said to Job (Peace upon him): **"And take in thy hand a little grass, and strike therewith: and break not (thy oath)"** [Surah of (the letter) Sad: 44].

﴿ وَخَذَ بِدِرْكٍ ضَعُفًا فَأَضْرَبَ بِهِ وَلَا تَحْنُثُ ﴾ [ص: 44]

For what would have stopped Him from saying to him 'by Allah's will' if this makes him free from his oath? Al-Muraghi said to himself: A city in which the bread merchants have that much knowledge and I plan to leave it to Maraghah? I will never do this. And he stayed there until he died.

These stories and ones similar to them show that the spirit of diligence did not die at once, this took place gradually as it was replaced with the spirit of cowardice and weakness within the souls, add to this the accumulation of seditions in the Islamic countries, the plentitude of rulers who ruled them at those times, and the division which necessitated backwardness and decomposition.

The Deeds of the Men of Knowledge at that Stage:

If the men of knowledge at that stage confined their own selves and committed themselves to following a particular Imam in his cases and *Fatwas*, they had on the other hand great and majestic works which attest to their knowledge and which would raise their level. They did not stop at pure imitation, they collected the traditions, preferring certain narrations to others, extracted the causes of the judgments, and derived from many issues and branches the principles of their Imams and their rules according to which they based their *Fatwas*. They went through heated battles of debates and arguments, putting forth proofs and arguments and writing

books about the points of disagreement in which they collected the judgments and proofs of the Imams. Each of them supported the school of his Imam and his opinions, maintaining that the proofs of those who disagree with him are false. By this they removed any veils and concealments deciding their judgments on issues about which their Imams did not have a text, so they completed the schools of their Imams through their looking into the preference of certain opinions, pointing out the ways of justification and the perception of proofs, clarifying also how the branches fall into these principles, clarifying that which is problematic and writing down what was neglected, comparing the opinion to each other and distinguishing the ones which have a strong point and those who have a weak one.

It is known from this that there were no independent diligent scholars at that age, the deeds of the scholars were confined to three things: the justification of the judgments, preference, and supporting their own schools.

1- The Justification of the Judgments

The scholars of that age received many judgments from their Imams which they assumed and imagined before they actually took place, countless such cases were collected by them, so they organized these cases classifying them with each other, finding the aspects of the differences between the different cases, and extracting the basis upon which a ruling was made so that they can deduce through analogy when there is no text to this effect. The position in which they had to look into these things and the assemblies in which they had

to argue about them and which became common place at that age led each group to extract the principles of their Imam according to which he based his derivation in the branches, and what he referred to in his discussion of the rulings so that those principles would be the fortresses they would use both in attacking the opponents or in defending their own school, this opened a door of diligence and derivation according to the school of the Imams as many of the principles were not pointed out in a definite manner by the Imams, they are not narrated directly from them, but they are rather rules which were extracted through looking into many branches, one such example is the book on the principles of the Hanafi school written by Al-Bazduwi, and the principles written by Al-Qurafi and 'Iyyad and others in the school of Malik, and what others write about this affair.

The people who occupied themselves the most with this were the Hanafis since most the books they relied upon in the way of Abu Hanifah, and which were Muhammad Ibn Al-Hassan's books were void from causes, for the care the predecessors showed from the branches was more complete, they were the peers of the Shafi'is in the field of debates, and they had to support those judgments with their proofs and to show their causes so as to be able to face their debaters, especially that the Hanafis delved deeper into deduction and preference than any other school.

Ash-Shafi'i (may Allah have mercy upon him) spared his followers this hardship through writing his own treatise on the principles, and writing down the debates he had with others supporting his arguments with proofs and his arguments he

made against those who disagreed with him. As for the Malikis and Hanbalis, they remained distance from the assemblies of debates which drive resolved to establish these issues.

2- Preference between Different Opinions in the One School

Preference can take place in two manners: one by way of narration (*Riwaya*), the other is by way of using reason (*Diraya*).

As for the preference which takes place through narration, the methods of the Imams were narrated by more than one person as you have already seen in their biographies, the narrators would often disagree on transmitting what the Imam ruled about the one issue, this is due to various reasons:

One is that the Imam may have changed his view of that issue, some may be aware of the fact that he changed his view and so they would narrate his second view, others may not be aware so they would narrate his first view.

Another is that he may have said one opinion by way of deduction and the other by way of preference, so each of the two narrators may hear one of the two views so both end up being narrated.

Another is that the answer can be from two aspects: one is judgment and the other is caution, so both would narrate these different views.

So if the narrators vary in the manner they ensure the correctness of what they narrate and their ability to memorize and preserve, the action of the scholars after the establishment

of the schools was to prefer the narration of the one who is more known for his preservation and who had acquired perfect trust, so the Hanafis preferred the narrations of Muhammad Ibn Al-Hassan over all the other companions, they preferred what Muhammad related in his books as they were narrated from him by the trustworthy narrators such as Abu Hafs al-Kabir and Al-Jawzjani and they called this: the apparent aspect of narration (*Thahir Ar-Riwayah*). The Shafi'i is preferred what Ar-Rabi' Ibn Suleiman narrates over what is narrated by Harmalah and Al-Jurmi, and if what Ar-Rabi' narrates disagrees with what Al-Muzni relates they give Ar-Rabi's narration the higher priority even though they admit that Al-Muzni has a higher standing in jurisprudence than Ar-Rabi'. The Malikis prefer what is narrated by Ibn Al-Qassim from Malik over all other narrations from him, and if what is narrated from Ibn Al-Qassim varies then they prefer what is narrated by Ash-hab over Ibn Abd Al-Hakam.

As for the second type of preference, which is in the narrations firmly proven to belong to the Imams themselves and which vary in themselves, or between what the Imam said and what his direct students said, this type needs a powerful juristic sense and a perfect experience with the principles of the Imams and the ways they derive rulings, so they prefer the verdicts and sayings which agree with these principles and what the general rules of the law and its general purposes attest to. They may disagree concerning the preference due to the variation in their knowledge, awareness of these principles, ability to connect things together, and power of insight.

3- Supporting the Schools

Each group of scholars at that age supported the school to whose method he adhered through all the means and ways, so you see:

(First) They wrote many hagiographies about the good deeds of the Imam of the school, stressing his vastness of knowledge, perfection in asceticism, the true piety which he had, the good deductive and derivation skills he had, the acuteness of his thoughts, the power of his argument, the subtlety of his approach, and the extreme care he has for upholding the Book and the Sunnah. The purpose of this is that they wanted the people to follow their school and to protect their way so that their power would increase and their way would prevail, they have used many inventive means to reach that end, some of them went to extremes as they attacked the Imams of the other schools.

An example of this is what Al-Qaffal Ash-Shashi did in the presence of Sultan Mahmud Ibn Sabaktakin, for he performed an ablution which is imperfect, prayed in an incomplete way, and then said: This is prayer according to Abu Hanifah. He then performed an ablution in the best manner possible and prayed in the best manner possible and said: This is Ash-Shafi'i's prayer, he does not consider prayer accepted if it is not performed in this way. This was a cause for Sultan Mahmud's abandonment of the Hanafi school, he embraced Ash-Shafi'i school and supported it.

(Second) They followed the places of disagreement and wrote books about them citing the issues in which the Imams disagreed with each other, putting forth the proofs each

school used, and preferring in all cases the verdict of the Imam to whom they adhere seeking logical and intellectual tricks to do so, a blameworthy and unjust extremism took place in this following. This drove them to affirm rulings which the principles of the Imams would reject. Jurists accused each other than their Imams contradicted the Quran and the Sunnah in certain issues, and based on this they stated that if the judge bases his verdict on those issues then his verdict would void as they are not a place for diligence.

(Third) They went through the field of debates and raced each other in the arena of arguments, they competed each other with fierce enmity and hostility in the presence of the princes and the notables and in front of many witnesses, each of them putting forward his proofs and arguments to the correctness of the school he follows. The debates became a place of slanders in which the truth is no longer observed, for the concern of each of them was to publicize his own school without caring if he is right or wrong. Abu Hayyan At-Tawhidi said: I heard Sheikh Abu Hamid say to Thahir Al-Abbadani: Do not rely much on what you hear from me in the assemblies of debates, for speech in them is mostly to confuse the opponent, to prove him wrong, to drive him away, and eventually to defeat him.

The Sixth Stage From the Middle of the Seventh Century Until the Present Day

The State of Legislation at this stage – the prevalence of Imitation

You have already seen from what we said about the legislation in the previous stages that diligence gradually increased in its power until it reached its peak, in the second and third stages the Companions and their Followers made their utmost effort to extract the rules about the issues which take place with them, they clarified the ways of derivation from Allah's Book and the Sunnah of His Messenger (Prayers of Allah and His Peace upon him), they drew plans for this which the later jurists put into use. Then the fourth stage came and the academic activity reached its peak in it, many diligent scholars appeared, the verdicts and judgments were written down, the principles and the rules were devised. But besides those diligent scholars and jurists over all of these ages there were many imitators who followed the others who were able to be diligent in the judgments they extract as diligence is a power which only the elite among the men of knowledge can attain in its causes and means. Allah is Merciful to His servants and does not require diligence from all people nor did He charge all of them to attain its means as it may occupy

them from the necessities of living and cause the professions and interests which the order of the world and civilization to stop altogether.

In the fifth stage tepidity found its way to the minds of the scholars, imitation became common place until it included both the commoners and the elite, yet despite this there were among them those who had the upper hand in derivation and preference and diligence within the confines of the schools and their issues, so they spent a praiseworthy effort.

As for the sixth stage, it is divided into two parts:

The first: ends with the beginning of the tenth Hijri century, the great scholars such as Khalil Al-Maliki, As-Subki, Ar-Ramli, Ibn Ar-Rif'ah, Al-Kamal Ibn Al-Humam, As-Suyuti and others who had the juristic acumen and the power of derivation, but they did not direct those powers to diligence and derivation as their predecessors did, but to writing books, most of them were summaries gathering the many branches in short and narrow sentences which were difficult to understand so that they needed even more books to explain their meanings and indicate the purposes of their meanings.

The synthetic and summarizing spirit was also prevalent over the writers of those commentaries so the need also arose to even comment on those commentaries, and thus the many writings appeared.

The concern of the reader of these books became the understanding of what is being said, the efforts were confined to solving what the words and sentences mean, people

became occupied with words from the essence and kernel of knowledge, which corrupted aptitudes and made the intellects toil in things which kill talents, driving the reader often to learn by heart without any proper understanding.

The extreme summarized and concentrated form these works took reached the extent that the author himself would not understand what he wrote, and would fail to explain the purpose he means from his own sentences, so how about someone who is a stranger to his book, how could he understand it and derive knowledge and jurisprudence from it?

See what happened with Ibn 'Arafah when he defined lease as: Selling a benefit which can be moved which is not a ship or an animal through a compensation that is not for the thing itself, and which part of it is partitioned through its partitioning.

One of his students mentioned that "part of it" negates summarization, and that there is no need for it, the Sheikh spent two days to think about it, then he replied about the issue of discussion and argued in its defense. Sheikh Al-Amir, who was a Maliki, had a similar thing occur to him.

As for the second part of that age, from the tenth century until now, the state of jurisprudence worsened to a large extent, the factors behind this are:

1-The scholars spent much of their time in studying those difficult books and severed their direct relationship with the precious and valuable books the predecessors left for them, meaning the scholars of the fourth and fifth stages. Those books would have given sustenance to the academic spirit,

resurrect the resolve and activeness and raise a perfect jurist as their clarification was straight forward, reading them was easy, and they perfectly filled the purpose they were written for.

2-The disconnection between the scholars of the Islamic world, the best way to attain knowledge in the previous stages was through the word of mouth, this would take place through the plentitude of academic journeys, the ancient jurists attained this high status through travelling and meeting the poles of knowledge in the various countries and discussing what they know with them and receiving from them. This kind of learning brings benefit which dry reading does not bring as it makes the mind more present and acute, thought more wide ranging and capable of reaching and delivering its purposes, the receiver of knowledge can ask about what he finds difficult and does not need to study the principles and terms which vary with the variation of the authors and which the student can spend a long time learning. Ibn Khaldoun said in a chapter he wrote to clarify seeking knowledge and meeting the Sheikhs and how this helps in increasing one's knowledge: The reason for this is that human beings take their knowledge and manner and the virtues and merits they are adorned with wither through directly learning them and reading about them, or through imitation and being shown how to do them which leads to the occurrence and firmness of intrinsic qualities, but terminology in teaching sciences confuses the learner so that many people think that it is the knowledge itself, this is only driven away from the learning person through direct contact due to the variation of the ways

of the teachers in defining terms, so he must detach knowledge itself from them fully knowing that they are but ways of teaching and delivering so that his faculties would rise and get mastery of intrinsic qualities of knowledge, correcting his forms of knowledge and distinguishing it from all others whilst strengthening his faculties through direct knowledge and learning from the many Sheikhs in their variation and differentiation.

3-The plentitude of books and writings in the various forms of knowledge and their tools, this led to plenty of mixing up and confusion causing the student of jurisprudence to lack the time to perform diligence and derivation. Here is what Ibn Khaldoun wrote about this affair: Know that having many books about the same subject is one of the most harmful factors to the people as it causes the differentiation of the terms used in delivering knowledge, and the variation of the methods of doing so whilst requiring the learning student from having all of this present in his mind and only then would he be acceptable as one who learns by them. So the learner needs to learn all of them or most of them and to observe their ways, if this is the case then if he dedicates the entirety of his life for one trade and detached himself fully for it he would inevitably fail from the level of truly learning it. Ibn Khaldoun gave an example of this in the "Mudawwanah" written on Malik's school and all the commentaries written on it in which the ways of the writers among the scholars of Cordova, Baghdad, Qayruwan, and Egypt varies. If the learner would not reach the knowledge he wishes to learn and would not be permitted to have the post of *Mufti* unless he encompasses all of those ways and distinguished between all

resurrect the resolve and activeness and raise a perfect jurist as their clarification was straight forward, reading them was easy, and they perfectly filled the purpose they were written for.

2-The disconnection between the scholars of the Islamic world, the best way to attain knowledge in the previous stages was through the word of mouth, this would take place through the plentitude of academic journeys, the ancient jurists attained this high status through travelling and meeting the poles of knowledge in the various countries and discussing what they know with them and receiving from them. This kind of learning brings benefit which dry reading does not bring as it makes the mind more present and acute, thought more wide ranging and capable of reaching and delivering its purposes, the receiver of knowledge can ask about what he finds difficult and does not need to study the principles and terms which vary with the variation of the authors and which the student can spend a long time learning. Ibn Khaldoun said in a chapter he wrote to clarify seeking knowledge and meeting the Sheikhs and how this helps in increasing one's knowledge: The reason for this is that human beings take their knowledge and manner and the virtues and merits they are adorned with wither through directly learning them and reading about them, or through imitation and being shown how to do them which leads to the occurrence and firmness of intrinsic qualities, but terminology in teaching sciences confuses the learner so that many people think that it is the knowledge itself, this is only driven away from the learning person through direct contact due to the variation of the ways

of the teachers in defining terms, so he must detach knowledge itself from them fully knowing that they are but ways of teaching and delivering so that his faculties would rise and get mastery of intrinsic qualities of knowledge, correcting his forms of knowledge and distinguishing it from all others whilst strengthening his faculties through direct knowledge and learning from the many Sheikhs in their variation and differentiation.

3-The plentitude of books and writings in the various forms of knowledge and their tools, this led to plenty of mixing up and confusion causing the student of jurisprudence to lack the time to perform diligence and derivation. Here is what Ibn Khaldoun wrote about this affair: Know that having many books about the same subject is one of the most harmful factors to the people as it causes the differentiation of the terms used in delivering knowledge, and the variation of the methods of doing so whilst requiring the learning student from having all of this present in his mind and only then would he be acceptable as one who learns by them. So the learner needs to learn all of them or most of them and to observe their ways, if this is the case then if he dedicates the entirety of his life for one trade and detached himself fully for it he would inevitably fail from the level of truly learning it. Ibn Khaldoun gave an example of this in the "Mudawwanah" written on Malik's school and all the commentaries written on it in which the ways of the writers among the scholars of Cordova, Baghdad, Qayruwan, and Egypt varies. If the learner would not reach the knowledge he wishes to learn and would not be permitted to have the post of *Mufti* unless he encompasses all of those ways and distinguished between all

of them then he would spend the entirety of his life without attaining his desire.

These three causes in addition to the first cause which is the concentrated summarization had the worst of effects in the rigidity of jurists and jurisprudence and the distance of the men of knowledge from the stations of firmness and diligence.

Generally speaking, a deluge of imitation overtook jurisprudence at this stage overtaking its spirit and closing the door of diligence and choice, this is not due to the impossibility of diligence but due to the causes which we will cite to you.

You have already seen that imitation in the sense of following one particular Imam in all what he permits and prohibits and sticking to his school in all what he devised had found its way to the minds of the scholars of the fifth stage. This had its causes as you will see, but the scholars did not cease at the limits of pure imitation, they completed the schools of their Imams. As for this stage, imitation had become prevalent, the scholars had nothing to do but to imitate the statements of those who came before them, complacent to the commentaries, commentaries on the commentaries, and further explanations they had in their hands, as for inventiveness and following the ways of the predecessors, they had nothing from this.

The Causes of the Spreading and Prevalence of Imitation

(First) The strong propaganda performed by the supporters of the followed schools, for they have taken over the hearts

and feelings of the people so that they considered he who does not follow any of them a deviant imitator. This was helped by the fact that some of the Imams had students who had a high social standing, some of those students came into direct contact with Caliphs and ministers making them contribute and support those schools in various ways. The Caliphs were the people most capable of driving the people to the direction to which they are inclined. The Shafi'i school was supported in the countries of the east by Mahmud Ibn Sabaktakin and Salah Ed-Din Al-Ayyubi supported it in Egypt. Muslims Turks were inclined to Abu Hanifah's school and supported it. It was often the case that princes and ministers built schools in which they confined teaching to a certain juristic school or schools, this was one of the causes people turned to these schools and turned away from diligence to keep the money allotted to those schools. Abu Zar'ah asked his Sheikh, Al-Imam Al-Balqini: Why does Sheikh Taqi Ed-Din As-Subki fall short of diligence although he completed all the qualifications for it? Al-Balqini remained silent. Abu Zar'ah then said: I can not see any reason for this except for the money allotted for the jurists according to the four schools of jurisprudence, and that he who goes beyond this and performs diligence would not have any of this, would be deprived from being a judge, and people would avoid his *Fatwas* as he will be called an innovator. Al-Balqini smiled and agreed with him.

(Second) The increasing loss of trust in the judges, for before the fifth stage, the judges used to be chosen from scholars who are able to derive judgments and rulings from

Allah's Book and the Sunnah of His Messenger, they were renowned for their piety, goodness, asceticism, and abstinence, they would present their verdicts based on what appears to them from the Book and the Sunnah and the traditions of the pious predecessors. They may ask other judges and *Muftis* if they did not reach the verdict themselves, so people had a strong if not a perfect trust in them. Then their state worsened, bribes appeared in those who held that post and injustice became commonplace, the posts of judges would be bought and sold, certain taxes would be imposed on the one who holds that post and he would extort people for their money through injustice and false verdicts. The trust of the people in them was shaken and as a result the people preferred that the judges would be subject to certain rulings which will close the door for them to abuse people's money and honor and blood, producing judgments which agree with their greed and desires as they choose the verdicts of the *Muftis* which agree with their passions. At that time the rulings of the schools were written and became widely known within the Islamic countries, so each country liked their judge to follow the school which they follow in judgment without deviating from it.

(Third) The writing down of the schools was a cause of their success and for people to follow them, they no longer felt the need to search and dig for judgments, this was a strong factor in the spread and survival of those schools. Do you not see that the methods and schools of the Imams among the Companions and their Followers were a beacon to those who came after them, having the best effect on Islamic

legislation, and yet all of them despite their greatness and plentitude grew extinct, no trace of them remains except what is mentioned at times in the books written about the disagreements, none of them have followers who directly follow then and commit to them as is the case with the schools prevalent now? The only reason for this is that they were not written down.

Ash-Shafi'i (May Allah have mercy upon him) said: Al-Laith had more understanding of the law than Malik, but his companions wasted him. Meaning that they did not care to write down his opinions and publicize them the way they themselves did to the views of Malik.

(Fourth) The envy the scholars had for each other prevented many of them from appearing as diligent scholars out of fear that the other scholars of the time would conspire against him and accuse him of innovation, making him subject to the wrath of the people and the target of the greatest of dangers.

(Fifth) The competition between the jurists and their arguments among themselves, for when they competed for the *Fatwas* whenever one of them would issue a verdict about something then his verdict would soon be replied to and contradicted, arguments would only cease if one can decisively produce a verdict from one of the predecessors.

(Sixth) The extremely summarized and concentrated texts wasted most of the time of the learner and prevented him from forming his jurisprudence.

(Seventh) The corruption of the educational system and the occupation of the scholars with what is not of their

concern which does not depend on derivation and what is not connected to it.

(Eighth) The plenitude of writings which, as we already explained, prevent learning.

(Ninth) The loss of self-confidence and the tepidity of resolves and will-powers.

(Tenth) People's love of materialism and the direction of their resolve and desire to the amassing of money.

The Biographies of Some Scholars of that Age who were Distinguished from Others⁽¹⁾

First – From the Hanafi Scholars

An-Nasafi:

He is Abdullah Ibn Ahmad Ibn Mahmud, Abu Al-Barakat Hafith Ed-Din An-Nasafi. He was raised in a pure scholarly manner until he became the head of both jurisprudence and its principles, well-versed in the Traditions, Ibn Kamal Pasha considered him one of the imitators who are capable of recognizing the strong Tradition from the weak ones, others said that he is the last of the diligent scholars of the school.

He has many good writings such as "Matn Al-Wafi" and the commentary on it called "Al-Kafi" which he wrote on jurisprudence, he wrote "Al-Manar" and the commentary on it in the field of the principles, and he has an interpretation of the Holy Quran called "Madarik At-Tanzil Wa Haqa'iq At-Ta'wil" which he summarized from Az-Zamakhshari's "Al-Kashaf".

(1) These biographies are not part of the Syllabus, they are mentioned due to the need for them.

He died at the beginning of the eighth Hijri century.

Az-Zayla'i:

He is Abu Muhammad Uthman Ibn Mihjan who is given the title: Fakhr Ed-Din Az-Zayla'i indicating that he is in Zayla' which is a town on the coast of the Abyssinian sea. He came to Cairo in the year 705 A.H. and he taught and issued *Fatwas* and spread jurisprudence, he was well known for his mastery of it in addition to his knowledge of grammar and the inheritance. He wrote a commentary on "Kanz Ad-Daqa'iq" which he called "Tabyeen Al-Haqa'iq" which is an acceptable commentary which the later scholars relied upon, when "Al-Bahr Ar-Ra'iq" refers to "the commentator" this means him. He discussed the Traditions of the rulings taking place in "Al-Hidayah" and all the Hanafi books. The author of "Al-Kashf" mentioned that he has a commentary of "Al-Jami' Al-Kabir".

He died in the year 743 A.H.

Al-Kamal Ibn Al-Humam:

He is Muhammad Ibn Abd Al-Wahid Ibn Abd Al-Hamid Kamal Ed-Din who is also known as Ibn Al-Humam As-Siwasi As-Sikandari. His father was a judge in Siwas in the Byzantine lands then he came to Cairo and was given the post of the Hanafi judge in it before being given this post in Alexandria, he married the Maliki judge's daughter in it and she gave birth to Al-Kamal for him in the year 788. As he grew up, Al-Kamal studied at the hands of his father and the other scholars of the city, then he read "Al-Hidayah" at the

hands of Siraj Ed-Din who was well known for teaching this book. He excelled over his peers and became well-versed in the various sciences. He then worked on spreading knowledge and many people benefited from him, he was an Imam in both jurisprudence and the principles, the various sciences of the Arabic language, he was also well-versed in the Traditions, Quranic interpretation, logic, and debates. He has several good written works, one of them is a commentary on "Al-Hidayah" which he did not finish, Qadi Zadeh who died in the year 988 A.H. later completed writing this work and called this completion "Nata'ij Al-Afkar", there is however a world of difference between what Al-Kamal wrote and Qadi Zadeh's continuation as anyone who reads the book will see. He also wrote "Al-Musayarah" on Theology, he wrote "At-Tahrir" in the principles, and he has a short work on the issues of prayer which he called "Zad Al-Faqir". He used an unbiased approach in his writings, and particularly in "Fath Al-Qadir" as he followed the proof without being influenced by bias for his school. Ibn Nujaym in "Al-Bahr Ar-Ra'iq" considered him one of the people of preference and others considered him one of the people of diligence. He followed the Sufi path and he wanted to detach himself for worship and asceticism, but the people of the Path said: Do not do this and return, for people need your knowledge.

Shams Ed-Din Muhammad who is known as Ibn Amir Al-Hajj Al-Halabi, Muhammad Ibn Muhammad Ibn Ash-Shuhnah, Sayf Ed-Din Ibn Omar Ibn Qutlubgha and others were his students. He issued *Fatwas* for a while but then he quit it altogether. He became the teacher of jurisprudence in

Al-Mansuriyyah, Al-Ashrafiyyah, and Ash-Shaykhuniyyah. He would always wear the clothes of the jurists.

He died in the year 861 A.H.

Al-'Ayni:

He is Muhammad Ibn Ahmad Ibn Musa Badr Ed-Din Al-'Ayni indicating that he is from Ayintep which is a town close to Aleppo. He was born in it in the year 762 A.H. and he came to Cairo in the year 787 A.H. where he occupied several posts as he was the commander of *Hisbah* [commandment of goodness and prohibition of evil] and then the Hanafi supreme judge. He has many works on jurisprudence and the other branches of knowledge such as "Sharh Al-Hidayah" which he called "Al-Binayah" which he had written at the age of ninety, he also has a commentary on "Al-Kanz" which is called: "Ramz Al-Haqa'iq", "Sharh Al-Mujamma'" and "Sharh Durar Al-Bihar". He has books on the Traditions such as his commentary on At-Tahawi's "Ma'ani Al-Athar" and a commentary on Sahih Al-Bukhari which is called: "Umdat Al-Qari". Other than this he wrote "Tabaqat Al-Hanafiyyah" and "Tabaqat Ash-Shu'ara'" and "Mukhtassar Tarikh Ibn Asakir". He has two commentaries on "Shawahid Ar-Radi" a lesser commentary and a greater one. He had an ability to attribute the Traditions to their chains of narrations and indicate their meanings, and a vast knowledge in all of the arts.

He built a school near Al-Azhar in the mosque which was named after him and which still exists now in which he put

his books as a mortmain. He has many good deeds and qualities. He died in Egypt in the year 855 A.H.

Ibn Nujaym:

He is Zayn Ed-Din Ibn Ibrahim Ibn Nujaym. He studied various sciences at the hands of a group of scholars such as Sharaf Ed-Din Al-Balqini and Shihab Ed-Din Ash-Shalabi among others, they gave him the license to teach and issue *Fatwas*. He wrote several books such as a commentary on "Al-Kanz" which is called "Al-Bahr Ar-Ra'iq", "Al-Ashbah Wa An-Natha'ir", a commentary on "Jami' Al-Fussul", comments on "Al-Hidayah" and several *Fatwas*. He also wrote "Sharh Al-Manar" and a summary on "Tahrir Al-Ussul" which he called: "Bab Al-Ussul" on the principles. One of his students is his own brother, Omar Ibn Ibrahim Ibn Nujaym who wrote "An-Nahr Al-Fa'iq 'Ala Kanz Ad-Daqa'iq". Despite his high post of knowledge, he was a noble mannered Sufi and one whose companionship was good.

He died in the year 969 A.H.

Second: From the Maliki Scholars

Khalil:

He is Abu Ad-Diya' Khalil Ibn Is-haq Al-Kurdi Al-Masri. He was a scholar who had encompassed Malik's school. Masterful of the sciences of the law and other branches of knowledge. He wrote a great commentary on "Mukhtassar Ibn Al-Hajib" which he called: "At-Tawdih" in which he made a great effort in returning the branches to their origins,

he then wrote a summary on that the summary in which he tried to write the principles relied upon in *Fatwas*, but he summarized and concentrated it to the extent that it became almost incomprehensible which led many scholars to write commentaries on it and spend a lot of effort explaining it as it has many branches and as it gained a great repute for encompassing the issues of the school. It is said that as many as sixty commentaries and interpretations were written for it.

He died in the year 776 A.H.

Al-Ajhuri:

He is Abu Al-Hassan Nur Ed-Din Ali Ibn Zayn Al-Abidin Muhammad Ibn Zayn Ed-Din Al-Ajhuri. He was born in Egypt in the year 967 A.H. and he was an Imam in both jurisprudence and Sufism as well as being well-versed in the sciences of the Arabic language. He wrote a comprehensive commentary on Khalil's summary, he has "Mawahib Al-Jalil Fi Tahrir Ma Hawah Mukhtassar Khalil", a commentary on Abu Zayd's treatise, a treatise on leasing lands to farmers and its judgments, "Al-Ajwibah Al-Muharrarah Li As'ilat Al-Bararah ", and "Ghayat Al-Bayan Li Hal Shurb Ma La Yughayyib Al-Aql Min Ad-Dukhan".

He died in the year 1066 A.H.

Al-Kharashi:

He is Abu Abdullah Muhammad Ibn Abdullah Ibn Ali Al-Kharashi, he studied the various sciences at the hands of well known scholars such as Al-Ajhuri, Sheikh Ibrahim Al-Laqqani and others. He was the one to teach a number of

scholars such as Sheikh Muhammad Az-Zarqani, An-Nifrawi, Sheikh Abd Al-Baqi Al-Qulayni, and other notable scholars.

His assembly was in the Aqbaghawiyah school in Al-Azhar in which he would read his lesson from after the dawn prayer until midday, he had another lesson in which he would read near the mosque's pulpit after the noon's prayer. He was the Sheikh of the Malikis and an Imam in the various forms of knowledge. He wrote an excelled commentary on Khalil's summary in which you do not find the difficulty and concentration which you find in the writings of the later Malikis.

He died in the year 1101 A.H.

Al-'Adawi:

He is Abu Al-Hassan Nur Ed-Din Ali Ibn Ahmad Ibn Mukarram Allah As-Sa'idi Al-'Adawi. He was born in Bani 'Uday in the year 1112 A.H. and studied at the hands of several Sheikhs such as Sheikh Abdullah Al-Maghrebi and Sheikh Muhammad As-Salamouni who both were Al-Kharashi's students. He wrote many useful books such as his commentary on Ibn Turki, a commentary on Az-Zarqani's commentary on Al-'Izziyyah, a commentary on Abu Hassan's commentary on Abu Zayd Al-Qayrawani's treatise, a great voluminous commentary on Al-Kharashi's commentary, a commentary on Abd Al-Baqi's commentary on Al-Mukhtassar which was written in six volumes, he copied a part of it into the final form and died before finishing it, and one of his companions finished it. He wrote several other books on several branches of knowledge.

He died in the year 1189 A.H.

Third – Among the Shafi'i Scholars

Muhyi Ed-Din An-Nawawi:

Abu Zakariah Yahya Ibn Sharh Ibn Marwa An-Nawawi, he was born in Nawa in the Levant in the year 631 A.H. and was raised in an environment of worship and knowledge. He was singular in his time in his knowledge, piety, asceticism, and devotion to worship. He spent all of his time in learning and writing so that he avoided many types of food lest they would make him lazy in a manner which would prevent him from his efforts. His time and action were blessed so his life, despite its shortness, was filled with many useful writings such as his commentary on "Sahih Muslim", "Riyad As-Salihin", "Al-Athkar", "Al-Araba'in", he wrote a commentary on "Al-Muhathab" in jurisprudence which he called "Al-Majmu'" and "Ar-Rawdah" in addition to "Tahthib Al-Asma' Wa Al-Lughat" in addition to other works which attest to his firm footing and which he kept a good memory for him.

He died in the year 677 A.H. in Nawa, he was 45 years old.

Taqi Ed-Din As-Subki:

He is Taqi Ed-Din Abu Al-Hassan Ali Ibn Abd Al-Kafi Ibn Tamam As-Subki. He was born in "Subk Ad-Dahhak" in Al-Munufiyyah in Egypt in the year 683 A.H. and learned jurisprudence from Ibn Ar-Rif'ah, he learned Traditions from

Sharaf Ed-Din Ad-Dimyatti and grammar from Abu Hayyan, he became the leader of the men of knowledge in Egypt.

He was a jurist, a Traditionalist, a scholar of the principles, and theoretician. Al-Asnawi said: He was the best theoretician we met among the people of knowledge, he was the best among them to speak about subtle things, if speech about knowledge rains then he is the cloud, or the fire of debates rage then he is their fuel. He was a poet and a man of letters with much learning, with much fairness and unbiased return to the truth. He remained occupied with issuing *Fatwas* and teaching and writing books in Cairo until the year 739 A.H., he then became the judge of the Levant until the year 756 A.H. when he fell ill and appointed his son in his place, returning to Egypt where he died in that year.

He wrote many books such as "Takmilat Al-Majmu' Fi Sharh Al-Muhathab" which he based on what An-Nawawi wrote, he has "At-Tahqiq Fi Mas'alat At-Ta'liq" in which he rejected Ibn Taymiyyah's views on the issue of divorce. He wrote many treatises on many issues of jurisprudence such as "Nur Al-Masabih Fi Salat At-Tarawih", "Kayf At-Tadbir Fi Taqwim Al-Khamr Wa Al-Khinzir", "As-Sumam As-Sa'ib Fi Qabd Dayn Al-Gha'ib" and many other books in the various arts many of which he began writing and did not finish.

Sheikh Al-Islam Zakariah Al-Ansari:

He is Abu Yahya Zakariah Ibn Muhammad Al-Ansari, he was born in Sanikah in Ash-Sharqiyyah in Egypt in the year 826 A.H. He became the leader of the scholars of Egypt so that it was said that at the end of his life only his students or

their students remained. He taught both jurisprudence and Sufism and had a firm footing in both worship and asceticism, he would fill those who see him with awe and intimacy.

He has many writings in jurisprudence and the Traditions and other things whose benefit and fame became universal, some of those were in jurisprudence such as "Minhaj At-Tullab" and the commentary on it called "Fath Al-Wahab", another is "Asna Al-Matalib Fi Sharh Rawdat At-Talib", "Al-Ghurar Al-Bahiyyah Sharh Al-Bahjah Al-Wardiyyah", "Tahrir Tanqih Al-Lubab" in which he summarized "At-Tanqih" through eliminating the points of disagreement and removing the *Fatwas* which are not relied upon, he added great points to it and then commented upon it in a book which he called: "Tuhfat At-Tullab". He has a commentary on "Alfiyyat Al-Iraqi" on the terminology of Traditions, and a commentary on Sahih Al-Bukhari which he called: "Tuhfat Al-Bari".

He died in the year 926 A.H.

Ibn Hajar Al-Haytami:

He is Shihab Ed-Din Ahmad Ibn Muhammad Ibn Ali Ibn Hajar Al-Haytami indicating that he is from Mahallat Abu Al-Haytam, one of the regions of Al-Gharbiyyah in Egypt. He was born in the year 909 A.H. and he studied at the hands of Zakariah Al-Ansari, Ar-Ramli, Al-Laqqani, Al-Balqini and others. He became well-versed in both textual and intellectual forms of knowledge. He went for his third pilgrimage to Mecca in the year 940 A.H. and he resided in it teaching and issuing *Fatwas* until he died and was buried in Al-Mu'allat.

He was an ocean of jurisprudence and an example for the Imams at his time, he wrote several books such as "Tuhfat Al-Muhtaj" which is a commentary on An-Nawawi's "Al-Minhaj", he wrote two commentaries on "Al-Irshad", one which was larger in size which he called "Al-Imdad", the other was smaller and he called it "Az-Zawajir 'An Iqtiraf Al-Kaba'ir", "Kaff Ar-Ru'a' 'An Muharramat Al-Lahw Was As-Sama'", "Al-Fatawa Al-Haytamiyyah", "Al-Fath Al-Mubin Sharh Al-Arba'in" and many other works.

He died in the year 995 A.H.

Fourth: The Hanbali Scholars

Ibn Taymiyyah:

He is the great scholar Ahmad Ibn Abd Al-Halim Ibn Taymiyyah who is titled Taqi Ed-Din and Abu Al-Abbas. He was born in Harran in Rabi' Al-Awwal in the year 661 A.H. and was raised in Damascus where he studied the various branches of knowledge at the hands of his father and other notable scholars of his age. He became well-versed in several sciences such as the principles, jurisprudence, the Traditions, Quranic interpretation, philosophy, Theology and linguistic so that he became distinguished in all of these disciplines, his opinion became powerful and listened to.

He worked on teaching, issuing *Fatwas*, and writing in all the aspects of those branches of knowledge, dedicating his life to those efforts. He was aided to do this through the power of his intellect and the speed of his learning in addition to the eloquence of his tongue. His enviers soon complained

about him to the rulers of the time accusing him of deviance in faith and mistakes in *Fatwas*. He was imprisoned several times as a result. Often assemblies of academic arguments would take place between him and the scholars to discuss what was attributed to him, his innocence from all the things attributed to him became apparent, and he won those arguments through his strong proofs and correct understanding. Despite the many times they complained about him and that he was imprisoned more than once he did not cease from writing, most of his greater works were written in his prison cell, these are renowned books which still exist today. Examples of his writings are "Al-Fatawa Al-Masriyyah", "Talbis Al-Jahmiyyah Fi Ta'sis Bid'atihim Al-Kalamiyyah", "Rad Ta'arud Al-Aql Wa An-Naql", "Minhaj As-Sunnah An-Nabawiyyah Fi Naqd Kalam Ash-Shi'ah Wa Al-Qudariyyah", "Al-Jawab As-Sahih Li Man Baddal Din Al-Masih", "As-Siyasah Ash-Shar'iyyah Fi Islah Ar-Ra'i Wa Ar-Ra'iyyah" and many other books.

The last trial Ibn Taymiyyah went through is the argument between himself and the other scholars about the permissibility of visiting the graves of the Prophets and the pious people, the four judges of Egypt produced the *Fatwa* that he is to be imprisoned in the Damascus castle, he was imprisoned there until he died, at that period of time he was prevented from writing and issuing *Fatwas* so that they deprived from even having a pen and an inkpad. He occupied himself with worship and said: What would my enemies do to me? My garden is in my heart and wherever I go it is with me. My imprisonment is solitude [with Allah], if they kill me

then it is martyrdom, and if they banish me then it is journeying [in Allah's lands].

The scholars attacked him so severely than many people accepted what was attributed to him, and the influence of this remains even today whenever the memory of this Sheikh is brought up.

Many became his students and took knowledge from him, and they made a great effort in the service of knowledge and it suffices that Ibn Al-Qayyim was one of them.

Ibn Taymiyyah (May Allah have mercy upon him) died in his prison cell in Damascus in the year 728 A.H.

Ibn Al-Qayyim:

He is Muhammad Ibn Abi Bakr Shams Ed-Din Ibn Qayyim Al-Jawziyyah. He was born in the year 691 A.H. and since his boyhood he accompanied Sheikh Ibn Taymiyyah so he learned all the sciences from him and followed his path in teaching, issuing *Fatwas*, and writing. He excelled over his peers and had the most quantity and quality of knowledge and the most powerful argument and eloquence among them. His many writings in many branches of knowledge attest to this as he wrote good works in all of those branches of knowledge, leaving for himself a good legacy. The complaints of the enemies which happened to his Sheikh happened to him, so he was imprisoned more than once and much harm was afflicted on him for the sake of knowledge.

He had written a great number of books, some of them are: "Zad Al-Ma'ad Fi Hadyi Khayr Al-'Ibad", "A'lam Al-Muwaqqi'in", "Hidayat Al-Hayara Fi Ar-Rad 'Ala Al-Yahud

Wa An-Nasara', "Tahthib Sunan Abu Dawud" and many others. Despite his efforts relating to knowledge in learning, teaching, and writing he was a devoted ascetic worshipper who delved deeply into Sufism.

Ibn Al-Qayyim (May Allah have mercy on him) died in the year 751 A.H.

Work on the Renaissance of Religious Thought in our Present Day

In all of the various stages Islamic jurisprudence went through, it was like other sciences and forms of knowledge in terms of the progress and boom it goes through at times, and the regress and recession it goes through at other times under the influence of the circumstances which surround its men in every age and how this reflects on the spirit of scientific research and academic research in general and to religious studies in particular.

We have discussed in the previous chapters every aspect which relates to the development of Islamic jurisprudence, referring the analysis of every case to its causes. Whatever were the causes leading those various fluctuations in the development of jurisprudence, jurisprudence in general became settled and established within the confines of the four famous schools whose publicity or lack of it varied between their followers and in the countries in which those schools found their way.

Although imitation eventually led to people to each faction upholding the views of his respective Imam and to an almost bigoted bias towards those Imams and to the

confinement of the scholars' efforts to writing books expounding the views, verdicts, and principles of those schools, there is a new academic spirit in Egypt in our present age which has shunned this rigid bias, yet preserved for each school its respect and taking into consideration the simple fact that all the schools to which the vast majority of the Muslims originate from one Origin and that is Allah's Book and the Sunnah of His Messenger (Prayers of Allah and His Peace upon him) and the actions of our pious predecessors (May Allah be pleased with them). They considered this fact and the fact that people often fall into difficulties in certain issues due to following one particular school so that they find no way within the methods and verdicts of that school to avoid those difficulties.

This appeared to the men of government in the issues which find their way to them, to the judges in the cases presented before them, to the scholars in what is required from them. The reformers among the men of knowledge and the people of government in Egypt did not wish to leave the affairs in their current hateful rigidity, leaving people to howl their complaints from every direction. Action must be taken to remove the distances between the known schools taking the people to a direction of seeking the solution of their problems in schools other than the ones which they follow, so as to follow the law in its original ease and tolerance, taking people through their occurrences and the necessities of their time in light of Islam.

For the pessimists, this is perhaps better than letting people go astray or leave the schools of jurisprudence which

they follow altogether to rulings which do not belong to Islamic jurisprudence at all if need takes over them and the rulings of the school they adhere to become too narrow, for religion is that of ease not hardship, and Allah did not make religion difficult for His servants.

This progress appeared in the sides of Al-Azhar becoming manifest in various way and appearances: in the judicial circuits, in teaching, and in preaching.

In the legislative aspect, the regulations of the Islamic courts were modified, so after being confined to the school of Abu Hanifah they became connected to a certain extent with the other schools. They were then further modified and in a more comprehensive manner by a group of scholars headed by the Sheikh of Al-Azhar, Sheikh Al-Muraghi, and which it included in its members Sheikh Abd Al-Majid Salim the *Mufti* of Egypt and its supreme judge Sheikh Fath Allah Suleiman. It is most likely that these modifications would lead to good aspects of reform in all things relating to personal status laws such as marriage, divorce, inheritance and so on, for they are working on having the Islamic court regulations move to the inclusion of a mixture of the schools of the law followed by the Muslims relying - when they take one of these schools into consideration - on the proof the Imam of this school used, and finding guidance through the aspects of derivation and preference they used so as to take as much caution in these decisions as possible.

As for the aspect of teaching, all of the schools are equal in terms of respect and esteem in the view of the scholars and students of Al-Azhar. There is no trace left of the enmity

which we heard about at the time of the later jurists, Sheikh Al-Muraghi, the Sheikh of Al-Azhar worked on removing an trace of this scholastic bias altogether when he introduced, among the courses taught in Al-Azhar, a course on the comparison of those four schools with each other, this did not exist before.

The purpose of this is to have an academic connection between those various schools in balancing the points which they agree upon and those which they differ at, and for the pupils to have some knowledge of the comparisons between the schools in their proofs, derivations, and preferences.

Add to this the course of the history of Islamic legislation so that the students of Al-Azhar would have knowledge of the various stages of Islamic jurisprudence in their totality and the causes of power or weakness which took place with it. All of this has the purpose of directing the new generations within Al-Azhar to unbiased academic research without the bias and bigotry which afflicted others before us.

As for the aspect of writing and preaching, all the magazines and newspapers aid each other in publishing what all the jurists from the various schools write, the general populace reads all what is written. People in the assemblies of preaching hear all the rulings they are told about attributed to the four schools without any malice in presenting them or bias to any school over the others.

This will implant within the minds of many people a respect for schools in their varieties, reminding each Muslim that each one of us has the right to choose which ever of those four schools he likes.

One of the aspects of Al-Azhar's activity in its forward march on with Islamic jurisprudence on the path of progress is that unforgettable stand which it had in the comparative law assembly in the Hague, the assembly invited Al-Azhar to send a delegate of its scholars in it at the time of its second term in Jumada Ath-Thaniyah of the year 1356 A.H., August 1927 A.D., Sheikh Al-Muraghi, the Sheikh of Al-Azhar heeded this invitation and sent a delegate of scholars in the assembly.

Al-Azhar's scholars presented the assembly with two important papers:

The first: is the criminal responsibility and civil responsibility from the Islamic point of view.

The second is the relationship of the Roman law with the Islamic law, negating what some of the Orientalists claim about the influence of the Roman law on Islamic law.

The delegates of Al-Azhar were subject to the admiration of the European members who saw the sublime nature of Islamic law and how it provides the highest pattern of social life, the result of this was that the members of the assembly, and unanimously, decided:

(First) The consideration of Islamic law as one of the sources of general legislation (Comparative law).

(Second) Considering Islamic law as a living law capable of development.

(Third) Considering Islamic law as one which stands by itself, independent from external influences.

(Fourth) the registration of the first research paper in the records of the assembly in its original Arabic language, and

considering it part of the academic collection saved for future reference.

(Fifth) The usage of the Arabic language in the assembly and recommending the continuation of doing so in the future terms.

This success by the delegates of Al-Azhar calls for plenty of joy as it maintains for this ancient institution, Al-Azhar, its proud standing and its good reputation in the service of religion and the language of the Quran.

Generally speaking, this calls for plenty of optimism and should be views as a praiseworthy progress.

May Allah reward us for the effort we committed to this book and grant us success to continue to serve knowledge in the manner which pleases Him

Muhammad Ali As-Sayiss

HISTORY OF ISLAMIC JURISPRUDENCE

Islamic law represents one of the world's great legal systems.

From this point, this book called «**History of Islamic Jurisprudence**», talks about a study which showed the status of Islamic jurisprudence in the era of the Prophet Muhammad (Peace be upon him) and all other eras that comes after it.

This book also discusses the points of weakness and strengthen of these eras.

In addition, It talks about some scholars and their impacts on provisions.